1975 No. 349

MAGISTRATES' COURTS

Magistrates' Courts (Licensing) Rules (Northern Ireland) 1975

Made . . . . . *9th December* 1975

Coming into operation . . . *1st February* 1976

To be laid before Parliament

The Secretary of State(a), in pursuance of section 23 of the Magistrates' Courts Act (Northern Ireland) 1964(b) and section 86(1) of and paragraph 4 of Schedule 4, paragraph 2 of Schedule 5, paragraph 3 of Schedule 6, paragraph 4 of Schedule 7, paragraph 8(2) of Schedule 8 and paragraph 3 of Schedule 9 to the Licensing Act (Northern Ireland) 1971(c), on the recommendation 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) 1975 and shall come into operation on 1st February 1976.

Revocations

2. The Magistrates' Courts (Licensing) Rules (Northern Ireland) 1971(d) and the two instruments each of which is entitled the Magistrates' Courts (Licensing) (Amendment) Rules (Northern Ireland) 1973(e) are hereby revoked.

Interpretation

3.—(1) In these rules—

"the Act" means the Licensing Act (Northern Ireland) 1971; and a reference to a section by number 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) 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) Formerly the Minister of Home Affairs for Northern Ireland: *see* S.I. 1973/2163
(b) 1964 c. 21 (N.I.)
(c) 1971 c. 13 (N.I.)
(d) S.R. & O. (N.I.) 1971, No. 184 (p. 898)
(e) S.R. & O. (N.I.) 1973, Nos. 14 (I, p. 52) and 487 (II, p. 2795)

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) under section 44 (for an order directing that the hours be alternative permitted hours) or under section 45 (for an order directing the inclusion of additional permitted hours for hotel or restaurant) he shall attach to the notice in Form 1, served on the clerk of petty sessions and to the copy served on the divisional commander of the police division in which the premises are situated a notice in Form 2, 3, 4 or 5, as may be appropriate, and, where the application is under section 29, under section 44(1)(*a*), 44(2) or section 45, a plan of the premises distinguishing the part thereof to which the application relates.

(3) The applicant for an order under section 29 of the Act 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(f).

(4) Notice of intention to object to the renewal of a licence shall be in Form 6.

Plans to be attached to notices of renewal

5.—(1) The plan referred to in rule 4(2) must be to scale on linen or substantial paper and shall show each floor of the premises on a separate page measuring approximately eighteen inches by eighteen inches and certified 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.

Production of evidence that hotel or restaurant complies with requirements

6.—(1) Where application is made for the renewal of a licence for a 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 of a restaurant, comply with the requirements of section 84(1) shall be lodged with the notice of application.

(2) 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.

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

Production of licence granted by district council under Local Government Act (Northern Ireland) 1934

7. Where application is made for the renewal of a licence—

(*a*) for a hotel or restaurant and either an application is to be made or an order is in force for the premises under section 45 of the Act; or

(*b*) for any place of entertainment,

any licence required for those premises by the district council under section 31 of the Local Government Act (Northern Ireland) 1934(g) shall be produced to the court.

PART III

TRANSFER OF LICENCES AND AUTHORISATIONS UNDER SECTION 26

Applications for transfer

8.—(1) Notice of application for the transfer of a licence shall be in Form 7 and notice of application for the transfer and renewal of a licence under section 20 shall be in Form 8.

(2) A short extract from a copy of the newspapers bearing the notices referred to in paragraph 1(*a*) of Schedule 5 to the Act 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 9.

Protection Orders and authorisation of continuance in business

9.—(1) Notice of application for a protection order shall be in Form 10.

(2) Notice that a person is carrying on business by virtue of section 25 shall be in Form 11.

(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 12.

(4) Notice of intention to object to the making of a protection order or an order under section 26 shall be in Form 13.

PART IV

OCCASIONAL LICENCES

Applications for the grant of an occasional licence

10.—(1) Notwithstanding anything in paragraph 2 of schedule 7 to the Act, a notice of application for the grant of an occasional licence shall be served not less than seven 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 14.

(3) An occasional licence shall be in Form 15.

(g) 1934 c. 22 (N.I.)

(4) The applicant for an occasional licence shall attach to the notice of application and to the copy thereof to be served on the divisional commander 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 to the Act shall be in Form 16 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 divisional commander 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 17 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 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 V

ALTERATIONS TO LICENSED PREMISES

Notice required by section 31(1)(ii)

11.—(1) The notice of an alteration to licensed premises required by order of some lawful authority referred to in section 31(1)(ii) of the Act shall be in Form 18.

(2) The proposed alterations shown in the plan required to be attached to Form 18 under paragraph 8(1) of Schedule 8 to the Act should be authenticated on behalf of the authority in question by the signature of an officer thereof having power to do so.

PART VI

EXTENSION LICENCES

Applications for extension licences

12.—(1) Notwithstanding anything in paragraph 2 of Schedule 9 to the Act, a notice of application for the grant of an extension licence shall be served not less than seven 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) An extension licence shall be in Form 21.

(4) Paragraphs (4), (5) and (8) of Rule 10 shall apply to applications for the grant of extension licences as they apply to occasional licences, and paragraph (8) of rule 10 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 VII

MISCELLANEOUS

Plans

13.—(1) Where premises were licensed for which plans were deposited in the office of the clerk of the Crown and peace and have been sent to the clerk of petty sessions or plans are in the possession of the clerk of petty sessions before the commencement of section 34(3) of the Act, those plans shall be indexed as relating to the register and kept as plans duly sent to such clerk under that section.

(2) Where by reason of any change in the boundaries of a petty sessions district or otherwise, premises should be registered in the register of another district, a certified copy of the relevant entry in the register and any plans relating thereto shall be sent by the clerk for the first-mentioned district to that of the other for inclusion in the register and he shall so inform the person holding the licence for the premises.

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

14.—(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 or, as the case may be, in which the applicant resides.

(2) 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.

Mode of service of documents

15.—(1) Any notice, document or copy thereof such as is referred to in Rule 14 or which is required by the Act or by these Rules to be served on the clerk of petty sessions or any other person or body may be served by the applicant, by his solicitor or a member of the staff in the solicitor's office over the age of sixteen years by sending it by registered post or by the recorded delivery service in an envelope addressed to the intended recipient—

(*a*) where Rule 14 applies, at the police station specified in that rule;

(*b*) where service is to be on the clerk of petty sessions or a local or official body, at the address of his or its office;

(*c*) in any other case, at his residence.