STATUTORY INSTRUMENTS

1987 No. 1277 (N.I. 13)

NORTHERN IRELAND

The Licensing (Northern Ireland) Order 1987

Made - - - - 21st July 1987
Coming into Operation on days to be appointed under Article 1(2)

At the Court at Buckingham Palace, the 21st day of July 1987

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order has been approved by a resolution of each House of Parliament:

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1 of Schedule 1 to the Northern Ireland Act 1974, and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

Title and commencement

1.—(1) This Order may be cited as the Licensing (Northern Ireland) Order 1987.

(2) This Order shall come into operation on such day or days as the Head of the Department of Health and Social Services may by order appoint.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954 shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order "Licensing Act" means the Licensing Act (Northern Ireland) 1971.

Prohibition of consumption of intoxicating liquor at entertainments organised for gain

3.—(1) After section 1 of the Licensing Act there shall be inserted—

"**Prohibition of consumption of intoxicating liquor at entertainments organised for gain.**

1A.—(1) Subject to subsection (2), it shall be unlawful to supply, keep for consumption or consume intoxicating liquor at any entertainment organised for gain in any premises.

(2) Subsection (1) shall not apply to anything done at—

(a) any entertainment in licensed premises or in the premises of a club registered under the Registration of Clubs (Northern Ireland) Order 1987; or

(b) any entertainment in connection with which an occasional licence has been granted.

(3) Subject to subsection (4), for the purposes of this section, an entertainment shall be deemed to have been organised for gain if any pecuniary advantage accrued or was intended to accrue to any person concerned in its organisation as a result of the entertainment; and in determining whether any such advantage so accrued or was intended to accrue no account shall be taken of any expenditure incurred in connection with the entertainment.

(4) An entertainment shall not be deemed to have been organised for gain if the whole proceeds of the entertainment, after deducting the expenses of the entertainment, are devoted to purposes other than private gain.

(5) Nothing in this section shall affect the delivery or supply of intoxicating liquor to, or the consumption of intoxicating liquor by, a person in premises in which he is residing; and in determining for the purpose of this section whether an entertainment is being held in any premises, the presence of persons residing in the premises shall be disregarded.".

(2) After section 52 of the Licensing Act there shall be inserted—

"**Penalty for consumption of intoxicating liquor at entertainments organised for gain.**

52A.—(1) Where a person—

(a) himself or by his servant or agent, supplies or keeps intoxicating liquor for consumption in contravention of section 1A(1); or

(b) being a person concerned in the organisation of an entertainment, himself or by his servant or agent, permits any person to supply, keep for consumption or consume intoxicating liquor in contravention of section 1A(1); or

(c) being the holder of a licence, himself or by his servant or agent, delivers intoxicating liquor to any premises mentioned in section 1A(1) or permits it to be so delivered; or

(d) consumes intoxicating liquor in contravention of section 1A(1); he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding 6 months or both and, except in the case of an offence under paragraph (c),any intoxicating liquor found in his possession and its containers shall be liable to be forfeited.

(2) Where section 1A(1) is contravened, every occupier of the premises who is proved to have had knowledge of or consented to the contravention shall be guilty of an offence under this section.

(3) Without prejudice to section 79, for the purposes of this section a vessel shall be deemed to be premises and subsection (2) shall apply to the master of a vessel as it applies to the occupier of premises.".

(3) In section 79(6) of the Licensing Act (licences for non-seagoing vessels) for "and section 52(3)" there shall be substituted "section 52(3) and section 52A(3)".

Separation of certain licensed premises from other business premises

4.—(1) In section 28 of the Licensing Act (separation of certain licensed premises from other business premises)—

(a) in subsection (2)—

(i) in paragraph (a) for "and matches" there shall be substituted "matches and lighters";

(ii) after paragraph (b) there shall be inserted—

"(bb) selling crisps and similar snack products and packaged nuts; (bbb) selling cork-screws and other bottle openers;";

(iii) after paragraph (d)(ii) there shall be added—

"(iii) providing accommodation for guests such as is mentioned in subsection (2A).";

(b) after subsection (2) there shall be inserted—

"(2A) The accommodation for guests which is provided under subsection (2)(d)(iii) shall be accommodation—

(i) which is registered in the register of guest houses maintained by the Northern Ireland Tourist Board under section 10 of the Development of Tourist Traffic Act (Northern Ireland) 1948; and

(ii) which conforms to the requirements, if any, prescribed by regulations made with the concurrence of the Department of Economic Development.";

(c) in subsection (3) after "businesses" there shall be inserted "other than the business mentioned in subsection (2)(d)(iii)".

(2) In section 47(a) of the Licensing Act (exceptions for residents in hotels, etc.)—

(a) for "an hotel" there shall be substituted "premises of a kind mentioned in section 3(1)(a) which provides accommodation for guests such as is mentioned in section 28(2A) or an hotel";

(b) for "the hotel" in both places where it occurs there shall be substituted "such premises or hotel".

Notice of applications for licences, etc., and imposition of certain conditions on such applications

5.—(1) In section 5 of the Licensing Act (powers of court on applications for licences)—

(a) in subsection (2)(c)(ii) for "paragraph 7 of Schedule 11" there shall be substituted "section 3(5)(a)";

(b) after subsection (2)(c) there shall be inserted—

"and

(d) either—

(i) that there is in force planning permission to use the premises as premises of the kind specified in the application for the period during which the licence would be in force; or

(ii) that the premises may be used as such premises for that period without such permission.";

(c) at the end of subsection (4) there shall be inserted—

"(4A) For the purposes of subsection (4)(a)(ii) an order under section 131(3)(b) of the Local Government Act (Northern Ireland) 1972 shall have effect as if it were an order under section 33 of the New Towns Act (Northern Ireland) 1965.";

(d) at the end of subsection (5A) there shall be inserted—

"(5B) A court which grants a licence under subsection (1) in respect of premises of a kind mentioned in section 3(1)(e) may attach to the licence such conditions as it thinks fit.

(5C) Where a court grants a licence under subsection (1) in respect of premises of a kind mentioned in section 3(1)(a) and the applicant for that licence has applied to the court for a direction specifying that on Sundays there shall be no permitted hours on the premises, the court shall give such a direction.";

(e) at the end of subsection (7) there shall be inserted—

"(8) Where a court gives a direction under subsection (5C) the chief clerk shall note the direction on the licence.".

(2) For section 7(7)(ii) of the Licensing Act (application to declare provisionally granted licence final) there shall be substituted—

"(ii) that the applicant is a fit person to hold a licence.".

(3) After section 11(4)(a) of the Licensing Act (applications for the renewal of licences) there shall be inserted—

"(aa) the licensed premises have been altered since the last previous renewal of the licence (or, where the renewal applied for is the first renewal of the licence, since the licence was granted); or (ab) the application for renewal is in respect of premises of a kind mentioned in section 3(1)(a) for which the applicant has also applied to the court for—

(i) a direction specifying that on Sundays there shall be no permitted hours on the premises; or

(ii) the cancellation of such a direction; or".

(4) In section 12 of the Licensing Act (powers of court hearing applications for renewal)—

(a) in subsection (2)(d)(ii) for "paragraph 7 of Schedule 11" there shall be substituted "section 3(5)(a)";

(b) at the end of subsection (2) there shall be inserted—

"and

(e) where the licence is in respect of premises of a kind mentioned in section 3(1)(e), that the conditions attached to the licence by the court under section 5(5B) have been observed.";

(b) at the end of subsection (3A) there shall be inserted—

"(3B) A court which renews a licence in respect of premises of a kind mentioned in section 3(1)(a), on the application of the holder of the licence—

(a) where a direction has not been given under section 5(5C), shall give such a direction; or

(b) shall cancel a direction given under paragraph (a) or section 5(5C).";

(d) at the end of subsection (6) there shall be inserted—

"(7) Where a court gives or cancels a direction under subsection (3B) the clerk of petty sessions shall note the direction or, as the case may be, the cancellation on the licence.".

(5) In section 34 of the Licensing Act (register of licences)—

(a) after subsection (1)(d) there shall be inserted—

"(dd) particulars of any condition imposed under section 5(5B) or any direction given under section 5(5C) or 12(3B)(a) and any cancellation of any such direction;";

(b) in subsection (2)—

(i) after "Schedule 6" insert "and";

(ii) the words "and paragraph 6(1) or (3) of Schedule 11" shall cease to have effect.

(6) In Schedule 1 to the Licensing Act (applications for the grant of licences)—

(a) in paragraph 1—

(i) after sub-paragraph (a) there shall be inserted—

"(aa) during the three weeks before that time, cause notice of the application to be displayed on or near the premises for which the licence is to be sought;";

(ii) in sub-paragraph (b) for the words from "a copy" onwards there shall be substituted —

"a copy of the notice upon—

(i) the sub-divisional commander of the police sub-division in which the premises are situated;

(ii) where the applicant resides in some other police sub-division, upon the sub-divisional commander of that sub-division;

(iii) the district council for the district in which the premises are situated.";

(b) in paragraph 2 the words "and address" shall cease to have effect;

(c) in paragraph 3 in sub-paragraph (1)(b) for "divisional commander of the police division" there shall be substituted "sub-divisional commander of the police sub-division" and at the end there shall be added "and upon the district council";

(d) in paragraph 4 for the words from the beginning to "local body" there shall be substituted "A sub-divisional commander upon whom notice is required by paragraph 1 to be served, the district council mentioned in that paragraph";

(e) for paragraph 6(b) there shall be substituted—

"(b) serve a copy of the notice upon the chief clerk.";

(f) in paragraph 7—

(i) in sub-paragraph (b) for "the vicinity or the police division" in the first place where it occurs there shall be substituted "the vicinity, the premises, the police sub-division or the district" and in the second place where it occurs there shall be substituted "the vicinity, the site of the premises, the police sub-division or the district";

(ii) after sub-paragraph (c) there shall be inserted—

"(cc) where the application is for the provisional grant of a licence of a kind mentioned in section 3(1)(a), (c) or (d), in paragraph 1(b) at the end there shall be added—

"(iv) the Northern Ireland Tourist Board.";

(g) for paragraph 8(a) there shall be substituted—

"(a) in paragraph 1, sub-paragraph (b)(ii) shall be omitted";

(h) for paragraph 9 there shall be substituted—

"**9.** A person who intends to make an application to have the provisional grant of a licence declared final shall, not less than three weeks before the time of the opening of the court sitting 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—

(i) the sub-divisional commander of the police sub-division in which the premises are situated;