STATUTORY INSTRUMENTS

1985 No. 1208 (N.I. 15)

The Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985

- - - - - - *31st July 1985*

Modifications etc. (not altering text)

C1 Order: transfer of functions (8.5.2016) by The Departments (Transfer of Functions) Order (Northern Ireland) 2016 (S.R. 2016/76), art. 1(2), **Sch. 5 Pt. 1** (with art. 9(2))

PART I

INTRODUCTORY

Title and commencement

1.—(1) This Order may be cited as the Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985.

(2) Subject to paragraph (3), this Order shall come into operation on the expiration of two months from the day on which it is made.

(3) Article 40 shall come into operation on the seventh day after the day on which this Order is made.

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—

"the Department" means the Department of the Environment;

"the principal Act" means the Local Government Act (Northern Ireland) 1972.

(3) Expressions used in this Order and in the principal Act have the same meaning in this Order as in that Act.

PART II

LICENSING BY DISTRICT COUNCILS

Licensing of places of entertainment

3. Schedule 1 shall have effect with respect to the licensing by councils of the entertainments referred to in that Schedule.

Licensing of sex establishments

4.—(1) A council may resolve that Schedule 2 is to apply to its district; and if a council does so resolve, that Schedule shall come into force in its district on the day specified in that behalf in the resolution (which must not be before the expiration of the period of one month beginning with the day on which the resolution is passed).

(2) A council shall publish notice that it has passed a resolution under this Article in two consecutive weeks in one or more newspapers circulating in its district.

(3) The first publication shall not be later than 28 days before the day specified in the resolution for the coming into force of Schedule 2 in the council's district.

(4) The notice shall state the general effect of that Schedule.

PART III

CONTROL BY DISTRICT COUNCILS OF PREMISES SUPPLYING MEALS OR REFRESHMENTS

Closing orders with respect to premises supplying meals or refreshments

5.—(1) A council may make an order under this paragraph (in this Part referred to as a "closing order") with respect to any premises in its district to which this Article applies if it is satisfied that it is desirable to make such an order to prevent residents in the neighbourhood of the premises being unreasonably disturbed either by persons resorting to the premises or by the use of the premises for the supply of meals or refreshments.

(2) This Article applies to any premises where meals or refreshments are supplied whether for consumption on or off the premises, other than—

(a) licensed premises within the meaning of the**[**F1 Licensing (Northern Ireland) Order 1996**]** which are not kept open for the supply of meals or refreshments to the public at any time between a time thirty minutes after the end of the permitted hours for those premises (within the meaning of**[**F2 that Order**]**) and 5 o'clock of the following morning; and

(b) a hotel within the meaning of**[**F2 that Order**]**.

(3) A closing order shall be an order specifying individual premises and prohibiting the use of the premises for the supply to or consumption by the public of meals and refreshments between such hours as may be specified in the order.

(4) The hours specified in a closing order shall commence not earlier than midnight and finish not later than 5 o'clock in the morning.

(5) A closing order may prohibit the use of the premises to which it relates for the supply to or consumption by the public of meals and refreshments between different hours on different days of the week.

(6) Nothing in a closing order shall prohibit the use of any premises in respect of which an entertainments licence is in force under Schedule 1 for the supply to or consumption by the public of meals and refreshments during any time when an entertainment to which paragraph 1 or 2 of that Schedule applies is being provided under and in accordance with the terms of that licence.

(7) A council may vary a closing order by an order under this paragraph (in this Part referred to as a "variation order").

(8) A council may revoke a closing order by an order under this paragraph (in this Part referred to as a "revocation order").

(9) A variation order or a revocation order may be made on the written application of the keeper of the premises to which the closing order relates, or without such an application.

(10) Subject to paragraph (11), a closing order shall cease to have effect 3 years from the date on which it was made, but without prejudice to the power of the council to make a further closing order.

(11) Paragraph (10) shall have effect in relation to a closing order which has been varied as if the reference to the date on which it was made were a reference to the date on which it was last varied.

(12) In this Part "the keeper", in relation to any premises, means the person having the conduct or management of the premises.

F1 1996 NI 22
F2 1990 NI 6

Closing orders—procedure and appeals

6.—(1) A council shall take all relevant circumstances into consideration when determining whether to make—

(a) a closing order; or

(b) a variation order which varies a closing order or a previous variation order by specifying—

(i) an hour later than that specified in the order which it varies as the hour at which the use of the premises for the supply to or consumption by the public of meals and refreshments may begin; or

(ii) an hour earlier than that so specified as the hour at which their use for that purpose is to end,

but a council may not make a closing order or such a variation order unless residents in the neighbourhood of the premises to which the order, if made, would relate have complained of disturbance such as is mentioned in Article 5(1).

(2) If a council proposes—

(a) to make a closing order; or

(b) to make such a variation order as is mentioned in paragraph (1)(b), it shall first serve a notice in accordance with paragraphs (12) to (14)—

(i) giving its reasons for seeking to make the order; and

(ii) stating that within 28 days of service of the notice the keeper of the premises to which the order, if made, would relate may in writing require the council to give him an opportunity to make representations to it concerning the matter.

(3) Where a notice has been served under paragraph (2), the council shall not determine the matter, until either—

(a) the keeper has made representations to the council concerning it; or

(b) the period during which he could have required the council to give him an opportunity to make representations has elapsed without his requiring the council to give him such an opportunity; or

(c) the conditions specified in paragraph (4) are satisfied.

(4) The conditions mentioned in paragraph (3) are—

(a) that the keeper has required the council to give him an opportunity to make representations to it;

(b) that the council has allowed him a reasonable period for making his representations; and

(c) that he has failed to make them within that period.

(5) Representations may be made, at the keeper's option, either in writing or orally.

(6) If the keeper informs the council that he desires to make oral representations, the council shall give him an opportunity of appearing before and of being heard by the council.

(7) The council shall not reveal to the keeper the name or address of any person who has made a complaint concerning the premises, unless it has first obtained the consent of the person who made the complaint.

(8) Where the keeper of any premises has applied for a variation order or a revocation order, the council shall be deemed to have refused the application if it fails to determine the matter within 8 weeks from the date on which the application was made.

(9) When a council makes an order under Article 5, it shall serve a copy in accordance with paragraphs (12) to (14).

(10) A closing order and any such variation order as is mentioned in paragraph (1)(b) shall come into force 21 days after the date of service.

(11) A variation order other than a variation order such as is mentioned in paragraph (1)(b) and a revocation order shall come into force on such date as may be specified in it.

(12) Any document required to be served under this Article shall be served on the keeper of the premises to which it relates and may be served on him by post.

(13) For the purposes of service any such document may be addressed to the keeper at the premises to which it relates.

(14) The keeper may be addressed either by name or by the description of "the keeper" of the premises (describing them).

(15) An appeal—

(a) against a closing order or a variation order; or

(b) against a refusal by the council to make a variation order or a revocation order,

may be brought to the country court by the keeper of the premises to which the order relates or would relate.

(16) No appeal against an order may be brought after it has come into force, and if an appeal is brought against an order, the order shall not come into force until the appeal has been determined or abandoned.

(17) No appeal against a refusal to make a variation order or a revocation order may be brought after the expiry of the period of 21 days from—

(a) the date on which the keeper was notified of the refusal; or

(b) in a case to which paragraph (8) applies, the end of the period referred to in that paragraph.

(18) On an appeal to the county court under this Article relating to any premises the court may confirm an order relating to the premises made under Article 5 or set it aside or give directions to

the council as to the making of such an order relating to the premises and the decision of the county court shall be final.

(19) It shall be the duty of the council to comply with any directions under paragraph (18).

Contravention of closing orders

7.—(1) In the event of a contravention of any of the provisions of a closing order, whether as originally made or as varied by a variation order, the keeper of the premises to which the order relates shall be guilty of an offence.

(2) It shall be a defence for a person charged with an offence under this Article to prove that he took all reasonable precautions and exercised all due diligence to avoid commission of the offence by himself or by any person under his control.

(3) A person guilty of an offence under this Article shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Part IV (Arts. 8-11) rep. by 2003 NI 2

PART V

CONTROL BY DISTRICT COUNCILS OF ACUPUNCTURE, TATTOOING, EAR-PIERCING AND ELECTROLYSIS

Application of Part V

12.—(1) The provisions of this Part, except this Article, shall come into force in accordance with the following provisions of this Article.

(2) A council may resolve that the provisions of this Part which are mentioned in sub-paragraph (a), (b) or (c) of paragraph (3) are to apply to its district; and if a council does so resolve, the provisions specified in the resolution shall come into force in its district on the day specified in that behalf in the resolution (which must not be before the expiration of the period of one month beginning with the day on which the resolution is passed).

(3) The provisions that may be specified in a resolution under paragraph (2) are—

(a) Articles 13, 15 and 16; or

(b) Articles 14 to 16; or

(c) Articles 13 to 16.

(4) A resolution which provides that Article 14 is to apply to the district of a council need not provide that it shall apply to all the descriptions of persons specified in paragraph (1) of that Article; and if such a resolution does not provide that Article 14 is to apply to persons of all of those descriptions, the reference in paragraph (2) to the coming into force of provisions specified in the resolution shall be construed, in its application to Article 14 and to Article 15 so far as it has effect for the purposes of Article 14, as a reference to the coming into force of those Articles only in relation to persons of the description or descriptions specified in the resolution.

(5) If a resolution provides for the coming into force of Article 14 in relation to persons of more than one of the descriptions specified in paragraph (1) of that Article, it may provide that that Article, and Article 15 so far as it has effect for the purposes of that Article, shall come into force on different days in relation to persons of each of the descriptions specified in the resolution.

(6) A council shall publish notice that it has passed a resolution under this Article in two consecutive weeks in one or more newspapers circulating in its district.