1971. No. 184 **[C]**

MAGISTRATES' COURTS RULES

Licensing

RULES, DATED 24TH JUNE 1971, MADE BY THE MINISTER OF HOME AFFAIRS UNDER SECTION 23 OF THE MAGISTRATES' COURTS ACT (NORTHERN IRELAND) 1964.

I, the Right Honourable Brian Faulkner, D.L., Minister of Home Affairs for Northern Ireland, in exercise of the powers conferred by section 23 of the Magistrates' Courts Act (Northern Ireland) 1964(a) 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(b) and all other powers thereunto enabling do hereby, upon the recommendation of the Magistrates' Courts Rules Committee and after consultation with the Lord Chief Justice, make the Rules hereinafter set forth.

Dated this 24th day of June 1971.

Brian Faulkner,
Minister of Home Affairs.

The Ministry of Finance concurs in the making of Rule 16 as to court fees.

Sealed with the Official Seal of the Ministry of Finance this 24th day of June 1971.

(L.S.)

C. F. Darling,
Assistant Secretary.

PART I

Citation

1. These Rules may be cited as the Magistrates' Courts (Licensing) Rules (Northern Ireland) 1971.

Revocatian

2. The Magistrates' Courts (Licensing) Rules (Northern Ireland) 1968(c) 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.

(a) 1964. c. 21 (N.I.).
(b) 1971. c. 13 (N.I.).
(c) S.R. & O. (N.I.) 1968, No. 90.

(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.

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) 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) and that required paragraph 6(1) of Schedule II to the Act to be attached to every notice of application for renewal of a licence for any premises after commencement date 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 a competent architect or surveyor, in addition in the case of plans referred to in the said paragraph 6(1), to complying with the requirements of that paragraph.

(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 of the premises 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.

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(**d**) 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.

PART III

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 7.

(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 8.

Protection Orders and authorisation of continuance in business

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

(2) Notice that a person is carrying on business by virtue of section 25 shall be in Form 10.

(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 11.

(4) Notice of intention to object to the making of a protection order or an order under section 26 shall be in Form 12.

PART IV

OCCASIONAL LICENCES

Applications for the grant of an occasional licence

9.—(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.

(**d**) 1948, c. 4 (N.I.).

(2) Notice of application for the grant of an occasional licence shall be in Form 13.

(3) An occasional licence shall be in Form 14.

(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 15 and the cautioner shall in addition to complying with that pargaraph 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 16 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 may so state on the bottom of the copy of the notice of the application which he receives and send the form to the clerk of petty sessions.

PART V

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) of the Act shall be in Form 17.

(2) The proposed alterations shown in the plan required to be attached to Form 17 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 licenses

11.—(1) Notice of application for an extension licence shall be in Form 18 and of intention to object thereto shall be in Form 19.

(2) An extension licence shall be in Form 20.

(3) Paragraph (4), (5) and (8) of Rule 9 shall apply to applications for the grant of extension licences as they apply to occasional licences.

PART VII

MISCELLANEOUS

Claims Fund

12. Where a licence for premises of a kind mentioned in section 3(1)(*a*) or (*b*) of the Act is renewed before 1st April 1972, or any other date prescribed by order of the Ministry of Finance such as is referred to in paragraph 15(2) of Schedule 11 to the Act, any receipt issued for the purposes of section 16(2) of the Finance Act (Northern Ireland) 1967 in the name of the said Ministry for the Claims Fund charge payable in respect of the period during which the licence is valid shall be attached to the notice of application for renewal of the licence served on the clerk of petty sessions.

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) 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.

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 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.