
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;

- (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.”;
- (i) for paragraph 11 there shall be substituted—
 - “**11.** A sub-divisional commander upon whom notice is required by paragraph 9 to be served or the district council mentioned in that paragraph 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—
 - (a) that the applicant is not a fit person to hold a licence; or
 - (b) that the premises have not been completed in accordance with the plans deposited under part I as modified by part II or in accordance with those plans with modifications consented to under section 7(6).”.
- (7) In Schedule 3 to the Licensing Act (approval of sites)—
 - (a) in paragraph 3(1)(b) for the words from “the divisional commander of each police division” onwards there shall be substituted—
 - “—
 - (i) the sub-divisional commander of each police sub-division in which the area, or any part of it, is situated;
 - (ii) the district council for each district in which the area, or any part of it, is situated.”;
 - (b) in paragraph 3(3) for the words from the beginning to “him” there shall be substituted “A sub-divisional commander upon whom notice is required by sub-paragraph (1)(b) to be served, the district council mentioned in that sub-paragraph”;
 - (c) for paragraph 3(4)(b) there shall be substituted—
 - “(b) serve a copy of the notice upon the chief clerk.”.
- (8) In Schedule 4 to the Licensing Act (applications for the renewal of licences)—
 - (a) in paragraph 3 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 5—
 - (i) for the words from the beginning to “local body” there shall be substituted “A sub-divisional commander upon whom notice is required by paragraph 3 to be served, the district council mentioned in that paragraph”;

- (ii) in sub-paragraph (d)(ii) for “paragraph 7 of Schedule 11” there shall be substituted “section 3(5)(a)”;
 - (iii) at the end there shall be added—
 - “; or
 - (e) in the case of premises for which an order under section 44 is in force, that the condition mentioned in section 44(2) has not been, and the requirements of paragraphs (a) and (b) of that subsection have not continued to be, complied with.”;
 - (b) for paragraph 6(b) there shall be substituted—
 - “(b) serve a copy of the notice upon the clerk of petty sessions.”.
- (9) In Schedule 5 to the Licensing Act (applications for the transfer of licences)—
 - (a) in paragraph 1(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 subdivision, 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 3—
 - (i) 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”;
 - (ii) in sub-paragraph (b)(ii) for “paragraph 7 of Schedule 11” there shall be substituted “section 3(5)(a)”;
 - (c) for paragraph 4(b) there shall be substituted—
 - “(b) serve a copy of the notice upon the clerk of petty sessions.”;
 - (d) in paragraph 6(a) for “or the police division” in both places where it occurs there shall be substituted “, the police sub-division or the district”.
- (10) In Schedule 6 to the Licensing Act (applications for protection orders and authorisations of temporary continuance of businesses)—
 - (a) in paragraph 2 for “divisional commander of the police division” there shall be substituted “sub-divisional commander of the police sub-division”;
 - (b) in paragraph 5 for the words from the beginning to “him)” there shall be substituted “The sub-divisional commander upon whom notice is required by paragraph 2 to be served”;
 - (c) in paragraph 6 for “divisional” there shall be substituted “sub-divisional”.
- (11) In Schedule 7 to the Licensing Act (applications for occasional licences)—
 - (a) in paragraph 2—
 - (i) for “four days” there shall be substituted “2 weeks”;
 - (ii) for the words from “a copy” onwards there shall be substituted—

- “a copy of the notice upon—
- (a) the sub-divisional commander of the police sub-division in which the place or premises to which the application relates is or are situated; and
 - (b) the district council for the district in which the place or premises is or are situated.”;
- (b) in paragraph 3—
- (i) the words “the local body or” shall cease to have effect;
 - (ii) for “divisional commander of the police division” there shall be substituted “sub-divisional commander of the police sub-division” and for “divisional commander” there shall be substituted “sub-divisional commander”;
- (c) in paragraph 5—
- (i) for the words from the beginning to “him)” there shall be substituted “The sub-divisional commander mentioned in paragraph 2(a), the district council mentioned in paragraph 2(b)”;
 - (ii) at the end there shall be added—
- “on either of the following grounds—
- (a) that functions held at the place or premises to which the application relates have been conducted so as to cause undue inconvenience to persons residing in the vicinity of that place or, as the case may be, those premises; or
 - (b) that terms and conditions imposed under section 27(11A) in respect of a previous occasional licence in respect of that place or those premises were not complied with.”;
- (d) in paragraph 6 for “divisional commander and” there shall be substituted “sub-divisional commander, the district council or”.
- (12) In Schedule 8 to the Licensing Act (applications and notices under section 31)—
- (a) in paragraph 2(a) for “divisional commander of the police division” there shall be substituted “sub-divisional commander of the police sub-division”;
 - (b) in paragraph 4(b) for “divisional” there shall be substituted “sub-divisional”;
 - (c) in paragraph 5 for the words from the beginning to “him)” there shall be substituted “The sub-divisional commander upon whom notice is required by paragraph 2 to be served”;
 - (d) for paragraph 6(b) there shall be substituted—
- “(b) serve a copy of the notice upon the chief clerk.”.
- (13) In Schedule 9 to the Licensing Act (applications for extension licences)—
- (a) in paragraph 2—
- (i) for “four days” there shall be substituted “2 weeks”;
 - (ii) for the words from “a copy” onwards there shall be substituted—
- “a copy of the notice upon—
- (a) the sub-divisional commander of the police sub-division in which the premises to which the application relates are situated; and
 - (b) the district council for the district in which the premises are situated”;

- (b) in paragraph 4 for the words from the beginning to “him)” there shall be substituted “The sub-divisional commander mentioned in paragraph 2(a) and the district council mentioned in paragraph 2(b)”;
- (c) in paragraph 6 for “divisional commander” there shall be substituted “sub-divisional commander or the district council”.

Occasional licences

6. In section 27 of the Licensing Act (occasional licences)—
- (a) in subsection (1)(a) at the beginning there shall be inserted “Subject to subsection (1A)”;
 - (b) after subsection (1) there shall be inserted—
 - “(1A) Not more than 13 occasional licences shall be granted by the court on one application.”;
 - (b) in subsection (6)—
 - (i) after “Sunday” there shall be inserted “after one in the morning”;
 - (ii) after “Christmas Day” there shall be inserted “, Easter Day”;
 - (iii) for “half past one” there shall be substituted “one”;
 - (d) after subsection (11) there shall be inserted—
 - “(11A) Where upon complaint made under part VIII of the Magistrates' Courts (Northern Ireland) Order 1981, a court of summary jurisdiction is satisfied that functions held at the place specified in an occasional licence have been conducted so as to cause undue inconvenience to persons residing in the vicinity of that place, the court may—
 - (a) revoke any other occasional licences granted in respect of that place; or
 - (b) order that the place specified in the licence shall not be a place for which an occasional licence may be granted; or
 - (c) make any licences mentioned in paragraph (a) subject to such terms and conditions as the court thinks fit.”.

Extension licences

- 7.—(1) In section 29(1) of the Licensing Act (suitability of certain premises for functions) for “of a kind mentioned in section 3(1)(a)” there shall be substituted “mentioned in section 45(7)”.
- (2) In section 49 of the Licensing Act (extension licences)—
- (a) in subsection (7)—
 - (i) after “Sunday” there shall be inserted “after one in the morning”;
 - (ii) after “Christmas Day” there shall be inserted “, Easter Day”;
 - (iii) for “half-past one” there shall be substituted “one”;
 - (iv) at the end there shall be added “or to a person admitted to the premises after half past twelve in the morning or, where the function is due to end before one in the morning, less than half an hour before the function is due to end.”;
 - (b) for subsection (12) there shall be substituted—
 - “(12) The premises to which this section applies are the premises mentioned in section 45(7) for which an order under section 29 is in force.”.

Permitted hours

8.—(1) In section 42 of the Licensing Act (general permitted hours)—

(a) for the words from the beginning to “permitted hours” there shall be substituted—

“(1) Subject to the succeeding provisions of this part, the permitted hours for premises of a kind mentioned in section 3(1)(a), (c), (d), (f) and (g)”;

(b) at the end there shall be added—

“(2) The permitted hours for premises of a kind mentioned in section 3(1)(b) are the hours on week-days, other than Christmas Day, from half past nine in the morning to nine in the evening.”.

(2) In section 43 of the Licensing Act (permitted hours on Sunday and Christmas Day) for the words from the beginning to “restaurant” there shall be substituted—

“In addition to the hours mentioned in section 42(1), the permitted hours for—

(i) premises of a kind mentioned in section 3(1)(a) (except such premises for which a direction under section 5(5C) or 12(3B)(a) is in force);

(ii) an hotel;

(iii) a restaurant;

(iv) a refreshment room in an airport;”.

(3) In section 46 of the Licensing Act (permitted hours for places of public entertainment) for “section 42” there shall be substituted “section 42(1) and in the case of a theatre, section 43”.

(4) For section 57 of the Licensing Act (conditions as to sale, etc., of intoxicating liquor in hotels on Sunday or Christmas Day and in restaurants) there shall be substituted—

“57 Conditions as to sale, etc., of intoxicating liquor on Sunday or Christmas Day and in restaurants.

(1) The holder of a licence for—

(a) premises of a kind mentioned in section 3(1)(a) (except such premises for which a direction under section 5(5C) or 12(3B)(a) is in force); or

(b) an hotel; shall not, himself or by his servant or agent, on Sunday or Christmas Day sell intoxicating liquor to, or make it available for purchase by, any person for consumption off the premises.

(2) Where a restaurant is licensed for the sale of intoxicating liquor, the holder of the licence shall not, himself or by his servant or agent, sell such liquor to, or make it available for purchase by, any person or permit it to be consumed by any person unless the conditions set out in subsection (3) are complied with.

(3) The conditions mentioned in subsection (2) are that—

(a) the intoxicating liquor is sold for consumption and is consumed—

(i) as an ancillary to a main table meal; and

(ii) in a part of the restaurant set apart for the service of such meals or for the service of intoxicating liquor and other beverages to diners before or after such meals; and

(b) suitable beverages other than intoxicating liquor (including drinking water) are also made available for consumption.

(4) Any person acting in contravention of subsection (1) or (2) shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(5) Subsection (1) shall not prohibit or restrict the selling of intoxicating liquor for consumption off the premises to a resident in 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 or the taking of it by him from such premises or hotel.”.

Alternative permitted hours for off-sales and additional permitted hours in certain premises

9.—(1) In section 44 of the Licensing Act (alternative permitted hours for off-sales)—

- (a) in subsection (1)—
 - (i) for “may” there shall be substituted “for premises of a kind mentioned in section 3(1)(a), may”;
 - (ii) for the words from “direct that” onwards there shall be substituted “direct that the permitted hours for a part of the premises for which the court imposes a condition under subsection (2) shall be the hours mentioned in section 42(2).”;
- (b) in subsection (3) for the words from “on the renewal” to “condition mentioned” there shall be substituted—
 - “(a) on the application of the holder of the licence; or
 - (b) where, upon complaint made under part VIII of the Magistrates' Courts (Northern Ireland) Order 1981, the court is not satisfied, in a case where the order was made under subsection (1), that the condition mentioned”;
- (c) subsection (4) shall cease to have effect.

(2) In section 45 of the Licensing Act (additional permitted hours in certain premises providing entertainment)—

- (a) for subsection (1) there shall be substituted—

“(1) Subject to the provisions of this section, a court of summary jurisdiction may, on an application duly made by a person who is the holder of a licence for premises which are or include premises to which this section applies, by order direct that—

 - (a) on such days in any licensing year; and
 - (b) in such part or parts of the premises; as may be specified in the order the hours from eleven in the evening to one in the morning of the day next following shall, in addition to the hours mentioned in sections 42(1) and 43 but subject to the condition mentioned in subsection (3) (where applicable), be included in the permitted hours for those premises.

(1A) The procedure for applications under subsection (1) is set out in Schedule 8A.”;
- (b) in subsection (2)(a)—
 - (i) for “hotel or restaurant” there shall be substituted “premises”;
 - (ii) the words “during the period specified in the order” shall cease to have effect;
 - (iii) the words “ and the sale of intoxicating liquor is ancillary to that refreshment and entertainment” shall cease to have effect;
- (c) in subsection (2)(b)—
 - (i) for “hotel or restaurant for any period” there shall be substituted “premises”;
 - (ii) the words “that throughout that period” shall cease to have effect;
 - (iii) in sub-paragraph (ii), for “hotel or restaurant” there shall be substituted “premises”;
 - (iv) at the end there shall be added—

- “(iii) the hours mentioned in subsection (1) have not caused undue inconvenience to persons residing in the vicinity of the premises”;
- (d) in subsection (3)—
- (i) for the words from “an hotel” to “the hotel” in the second place where it occurs there shall be substituted
“premises mentioned in subsection (7)(a) or
(c) it shall insert in the licence for the premises a condition that the specified part or parts of the premises”;
- (ii) the words “half-past” shall cease to have effect;
- (e) in subsection (4)—
- (i) after “satisfied that” there shall be inserted
“(a)”;
- (ii) after “premises” in the second place where it occurs there shall be inserted
“; or
(b) such hours are causing undue inconvenience to persons residing in the vicinity of the premises;
(c) in the case of a complaint made by the sub-divisional commander of the police sub-division in which the premises are situated, that the specified part or parts of the premises are not being used for the purpose of habitually providing substantial refreshment and entertainment;”;
- (f) in subsection (5)—
- (i) for “, or on Christmas Day” there shall be substituted “after one in the morning, or on Christmas Day, Easter Day”;
- (ii) for “one” there shall be substituted “half past twelve”;
- (iii) the words “half-past” shall cease to have effect;
- (g) in subsection (6)—
- (i) for “an hotel or restaurant” there shall be substituted “any premises”;
- (ii) the words “during any period” and the words “during that period” where they twice occur shall cease to have effect;
- (iii) after “42” there shall be inserted “(1)”;
- (h) after subsection (6) there shall be added—
- “(7) The premises to which this section applies are—
- (a) an hotel;
- (b) a restaurant;
- (c) any part of premises of a kind mentioned in section 3(1)(a) which are structurally adapted and used, or intended to be used, for the purpose of providing persons frequenting the premises with a main table meal at midday or in the evening, or both, and for which there is in force a certificate from the Northern Ireland Tourist Board stating—
- (i) that in the opinion of the Board the premises—
- (aa) are well equipped and well furnished and provide comfortable seating in the dining room or rooms; and
- (bb) are operated by a competent management and staff; and

- (cc) provide a high standard of catering; and
 - (ii) that the premises conform to the requirements, if any, prescribed by regulations made with the concurrence of the Department of Economic Development.”.
- (3) After Schedule 8 to the Licensing Act there shall be inserted—

“SCHEDULE 8A

APPLICATIONS UNDER SECTION 45

1. In this Schedule “application” means an application under section 45.
2. A person who intends to make an application shall, not less than 3 weeks before the time of the court sitting at which the application is to be made, serve notice of the application upon the clerk of petty sessions and at the same time serve a copy of the notice upon—
 - (a) the sub-divisional commander of the police sub-division in which the premises to which the application relates are situated; and
 - (b) the district council for the district in which the premises to which the application relates are situated.
3. The notice mentioned in paragraph 2 shall specify the kind of premises to which the application relates and shall be in such form and shall contain such information as may be prescribed by magistrates' courts rules.
4. The sub-divisional commander mentioned in paragraph 2(a), the district council mentioned in paragraph 2(b) or any person owning or residing in, premises in the vicinity of the premises to which the application relates shall be entitled to appear at the hearing of the application and to object to the court’s order directing that the hours mentioned in section 45(1) be included in the permitted hours in the premises providing entertainment on any of the following grounds—
 - (a) that those hours will cause, or where an order under section 45 was in force with respect to the premises for any period during the preceding year, have caused, undue inconvenience to persons residing in the vicinity of the premises; or
 - (b) where an order under section 45 was in force with respect to the premises for any period during the preceding year, that the business carried on in the premises has been conducted during those hours and any period immediately following their termination in such a manner so as to cause undue inconvenience to persons residing in the vicinity of the premises; or
 - (c) that the premises are not suitable to have those hours as they do not comply with the requirement of section 45(2)(a) or, (where an order under section 45 was in force with respect to the premises during the preceding year) that requirement has not continued to be and the condition mentioned in section 45(3) (if applicable) has not been, complied with.
5. A person intending to object under paragraph 4 shall, not less than one week before the time mentioned in paragraph 2,—
 - (a) serve upon the applicant notice of his intention to object, briefly stating his grounds for so doing; and
 - (b) serve a copy of the notice upon the clerk of petty sessions.”.

Minors prohibited from certain premises

10. In section 61 of the Licensing Act (minors prohibited from bars)—
 - (a) for subsection (1) there shall be substituted—

- “(1) During the permitted hours a minor shall not be in—
- (a) any part of premises of a kind mentioned in section 3(1)(a) which is—
 - (i) structurally adapted for the sale of intoxicating liquor for consumption off the premises, and
 - (ii) not connected by any internal means of passage open to customers with a part of the premises used for the sale of intoxicating liquor for consumption in the premises;
 - (b) any part of premises of a kind mentioned in section 3(1)(b);
 - (c) any part of any other licensed premises which—
 - (i) contains a bar; or
 - (ii) is used exclusively or mainly for the sale and consumption of intoxicating liquor.”;
- (b) in subsection (7) at the beginning there shall be inserted—
- “Subsections (1) and (2) shall not apply with respect to a minor who is in a part of premises mentioned in subsection (1)(a) or (b) and is accompanied by a parent and”.

Provision for inspection and rights of entry

11. For sections 67 and 68 of the Licensing Act (right of police to enter premises and search warrant) there shall be substituted—

“67 Provision for inspection and rights of entry.

- (1) A constable may, at any reasonable time,—
- (a) for the purpose of inspecting the suitability of—
 - (i) premises in respect of which a notice of application has been served under paragraph 1(b) of Schedule 1 for the grant of a licence under this Act;
 - (ii) licensed premises in respect of which a notice of application has been served under paragraph 3 of Schedule 4 for the renewal of a licence under this Act and in which since the last previous renewal of the licence (or, where the renewal to be applied for is the first renewal of the licence, since the licence was granted), alterations have been made; enter and inspect the premises or, as the case may be, the licensed premises;
 - (b) for the purpose of ascertaining whether a contravention of this Act is being or has been committed or whether any conditions which are applicable under this Act are being or have been complied with, enter and inspect—
 - (i) licensed premises; or
 - (ii) premises which adjoin or are near licensed premises and which belong to the holder of the licence or are under his control or used by his permission.
- (2) If any person—
- (a) fails or delays without reasonable excuse to admit a constable who demands admission to the premises under subsection (1); or
 - (b) on being required by a constable to do so, fails without reasonable excuse to permit the constable to inspect the premises; he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(3) If, on complaint on oath, a justice of the peace is satisfied that there are reasonable grounds for suspecting that an offence under this Act is being, has been or is about to be committed at any place, he may issue a warrant in writing authorising any constable to enter that place, if necessary by force, at any time within 14 days from the time of the issue of the warrant and to search that place.

(4) Any constable who enters any place under the authority of a warrant issued under subsection (3) may—

- (a) seize and remove any intoxicating liquor and its containers found in that place which he has reasonable cause to believe may be required as evidence for the purposes of proceedings in respect of an offence under this Act, and
- (b) arrest and search any person found at that place whom he has reasonable cause to believe to be committing or to have committed any such offence.

(5) A constable may arrest without warrant any person who does in his presence any act the doing of which is declared by this section to be an offence and who refuses to give his name and address.

(6) In subsections (3) and (4) “place” includes “premises”.

Suspension of licences

12.—(1) After section 71(2) of the Licensing Act (suspension of licences) there shall be inserted—

“(2A) Without prejudice to subsection (2), where the holder of a licence in respect of any premises is convicted of an offence under—

- (a) section 41(1)(a) by virtue of a contravention of—
 - (i) section 43 or 45; or
 - (ii) section 46 in relation to the hours mentioned in section 43; or
- (b) section 49(9) or 57(4); the court, instead of suspending the licence under subsection (2), may—
 - (i) in the case of an offence under section 41(1)(a), order that the premises shall not be premises to which section 43, section 45 or, as the case may require, section 46 in relation to the hours mentioned in section 43 applies; or
 - (ii) in the case of an offence under section 49(9), order that the premises shall not be premises to which section 49 applies; or
 - (iii) in the case of an offence under section 57(4), order that the premises shall not be premises to which section 43 applies; for such period as the court may determine.”.

(2) In section 72 of the Licensing Act (penalty for opening licensed premises during period of suspension)—

- (a) for the words from the beginning to “himself” there shall be substituted “Where the holder of a licence himself”;
- (b) after “consumed in the premises” there shall be inserted—
 - “(a) on any day on which the licence for the premises is suspended; or
 - (b) in the case of premises to which an order under section 71(2A) applies, outside the permitted hours specified in section 42(1)”;
- (b) for “an additional period” there shall be substituted “a period or, as the case may be, an additional period”.

- (3) In section 73 of the Licensing Act (procedure in connection with suspension)—
- (a) in subsection (2) after “a licence” there shall be inserted “or makes an order under section 71(2A)”;
 - (b) in subsection (3)(b) at the beginning there shall be inserted “subject to subsection (4)”;
 - (c) after subsection (3) there shall be added—

“(4) The clerk of petty sessions who keeps the register as mentioned in subsection (3) shall, in the case of a licence for premises with respect to which an order under section 71(2A) applies, note the effect of the order and the period for which it has effect on the licence.”.

- (4) For section 74 of the Licensing Act (suspension of licence not to take effect pending appeal against conviction) there shall be substituted—

“74. Where on conviction of an offence a licence is suspended or an order under section 71(2A) is made the suspension or, as the case may be, the order shall not take effect—

- (a) until the expiry of the time for bringing an appeal against the conviction or against the suspension or as the case may be, the making of the order, and
- (b) if such an appeal is brought, until the appeal has been determined or abandoned.”.

Other miscellaneous amendments

- 13.—(1) In section 3 of the Licensing Act (premises for which licences may be granted)—

- (a) in subsection (2) at the end there shall be added—

“or providing accommodation for guests such as is mentioned in section 28(2A)”;

- (b) in subsection (5)—

- (i) in paragraph (a) for “such as is mentioned in paragraph 7(1) of Schedule 11” there shall be substituted—

“showing that the licence was granted—

- (i) before 31st July 1902; or

- (ii) between 30th July 1902 and 3rd May 1971 otherwise than under section 2(2) of the Licensing (Ireland) Act 1902 or section 9(a)(ii) of the Intoxicating Liquor Act (Northern Ireland) 1923; or

- (iii) under Article 4(1) of the Licensing (Northern Ireland) Order 1978 in lieu of an existing licence to which sub-paragraph (i) or (ii) applied.”;

- (ii) in paragraph (b)(ii) for “paragraph 7(1) of Schedule 11” there shall be substituted “paragraph (a)”.

- (2) After section 14(1) of the Licensing Act (renewal of licence pending grant of new licence) there shall be inserted—

“(1A) Where the holder of a licence has died, his personal representative may apply under subsection (1) for the renewal of the licence, and the court may renew the licence in his name.”.

- (3) In section 19(2)(b)(ii) of the Licensing Act (transfer of licences for hotels) for “paragraph 7 of Schedule 11” there shall be substituted “section 3(5)(a)”.

- (4) For section 35 of the Licensing Act (inspection of register) there shall be substituted—

“35 Inspection of register.

35. A register of licences may be inspected and copies of all or any part of any entry in the register may be taken at all reasonable hours.”.

(5) In section 48 of the Licensing Act (consumption or removal after permitted hours of liquor bought during those hours)—

(a) in paragraph (a) for “or in an hotel or restaurant” there shall be substituted “and in premises of a kind mentioned in section 3(1)(a), an hotel, a restaurant, a refreshment room in an airport or a theatre”;

(b) in paragraph (b)—

(i) in sub-paragraph (i) for the words from “applying” to “force” there shall be inserted “is in force or where the liquor was sold in contravention of section 57(1) or of a condition inserted in the licence under section 45(3)”;

(ii) in sub-paragraph (ii) for “57(2)(a)” there shall be substituted “57(1)”.

(6) In section 84 of the Licensing Act (interpretation)—

(a) in subsection (1)—

(i) the following definitions shall be inserted at the appropriate places—

“ballroom” means any premises which are structurally adapted and used or intended to be used for the purpose of public dancing and for which an entertainments licence within the meaning of Schedule 1 to the Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985 is in force;

“main table meal” means a meal which is in its entirety, or which includes, a main course and which is eaten by a person seated at—

(a) a table; or

(b) a counter or other structure which serves the purpose of a table and which is not used—

(i) wholly or mainly as a bar; or

(ii) for the service of refreshments for consumption by persons not seated at a table or that counter or structure;

“police sub-division”, in relation to a sub-divisional commander means the sub-division for which that commander acts;

“sub-divisional commander” means a sub-divisional commander of the Royal Ulster Constabulary;”;

(ii) in the definition of “bar” the word “drinking” shall cease to have effect;

(iii) the definition of “divisional commander” shall cease to have effect;

(iv) in the definition of “housing authority” the words “local or” shall cease to have effect;

(v) the definition of “local body” shall cease to have effect;

(vi) for the definition of “place of public entertainment” there shall be substituted—

“place of public entertainment’ means—

(a) premises used as a theatre;

(b) premises used as a ballroom;

(c) premises on a licensed track within the meaning of the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985;

- (d) such other premises used for the purposes of such entertainments, in accordance with such conditions, as may be prescribed by regulations made subject to affirmative resolution;”;
- (vii) in the definition of “restaurant”, in paragraph (a) for “customary main meal” there shall be substituted “main table meal”;
- (viii) the definitions of “police division” and “table meal” shall cease to have effect;
- (b) in subsection (4)(a) for “paragraph 7(1) of Schedule 11” there shall be substituted “section 3(5)(a)”;
- (c) in subsection (8) for “police division” where it twice occurs there shall be substituted “police sub-division”;
- (d) after subsection (8) there shall be inserted—
 - “(9) In this Act any reference to a sub-divisional commander of a police sub-division includes a reference to any other member of the Royal Ulster Constabulary nominated by him.”.
- (7) In section 85(f) of the Licensing Act (exemptions and savings)—
 - (a) for “wine to or by a local or” there shall be substituted “intoxicating liquor to or by a”;
 - (b) at the end there shall be added “or consumed as ancillary to such a meal.”.
- (8) In Article 4(1)(a) of the Licensing (Northern Ireland) Order 1978 (grant of new licences in lieu of existing licences) for
 - “is one to which head (a) or
 - (b) of paragraph 7(1) of Schedule 11 to the Act applied” there shall be substituted—
 - “was granted—
 - (i) before 31st July 1902; or
 - (ii) between 30th July 1902 and 3rd May 1971 otherwise than under section 2(2) of the Licensing (Ireland) Act 1902 or section 9(a)(ii) of the Intoxicating Liquor Act (Northern Ireland) 1923;”.

Increase in penalties

- 14.—(1)** In the Licensing Act—
- (a) in section 6(4) (failure to comply with court order requiring alterations in licensed premises) for the words from “£100” onwards there shall be substituted “level 5 on the standard scale or to imprisonment for a term not exceeding 6 months or both”;
 - (b) in section 31(b) (failure to comply with court order requiring restoration of licensed premises to their original condition) for the words from “£100” onwards there shall be substituted “level 5 on the standard scale or to imprisonment for a term not exceeding 6 months or both”;
 - (c) in section 41(2) (selling, etc., intoxicating liquor outside permitted hours) for “level 3 on the standard scale” there shall be substituted “level 5 on the standard scale”;
 - (d) in section 50(1) (person found on licensed premises outside permitted hours) for “level 3” there shall be substituted “level 4”;
 - (e) in section 52(1) (selling, etc., intoxicating liquor without a licence) for “level 4” there shall be substituted “level 5”;
 - (f) in section 53(2) (selling, etc., certain kinds of alcohol) for “level 4” there shall be substituted “level 5”;

- (g) in section 56 (selling, etc., intoxicating liquor contrary to conditions applicable to certain licences) for the words from “level 3” onwards substitute “level 4 or to imprisonment for a term not exceeding 3 months or both”;
- (h) in section 61—
 - (i) in subsection (4)(a) (minor in licensed premises) for “level 2” there shall be substituted “level 3”;
 - (ii) in subsection (4)(b) (permitting minor to be, or causing or procuring minor to enter or be, in licensed premises) for “level 3” there shall be substituted “level 4”;
 - (iii) in subsection (6) (minor representing himself to be of full age for purpose of being in licensed premises) for “level 2” there shall be substituted “level 3”;
- (i) in section 62—
 - (i) in subsection (6)(a) (selling, etc., intoxicating liquor to a minor) for “level 3 on the standard scale” there shall be substituted “level 5 on the standard scale or to imprisonment for a term not exceeding 6 months or both”;
 - (ii) in subsection (6)(b) (minor buying, etc., intoxicating liquor) for “level 2” there shall be substituted “level 3”;
 - (iii) in subsection (8) (minor representing himself to be of full age for purpose of obtaining, etc., intoxicating liquor) for “level 2” there shall be substituted “level 3”;
- (j) in section 63(1) (permitting drunkenness or disorderly conduct in licensed premises or selling liquor to a drunken person) for “level 3” there shall be substituted “level 4”;
- (k) in section 65(2) (failure to leave licensed premises on request of the holder of the licence or a constable) for “level 3” there shall be substituted “level 4”;
- (l) in section 69(1) (person found on unlicensed premises where intoxicating liquor is sold or consumed) for “level 3” there shall be substituted “level 4”;
- (m) in section 73(2) (failure to comply with court order) for the words from “£5” onwards there shall be substituted “level 4 on the standard scale or imprisonment for 3 months or both”;
- (n) in paragraph 5(2) of Schedule 5 (failure to comply with court order) for the words from “£5” onwards there shall be substituted “level 4 on the standard scale or imprisonment for 3 months or both”.

(2) Nothing in this Article shall affect the punishment for an offence committed before this Article comes into operation.

Repeals

15. The enactments specified in the Schedule (which include certain spent enactments) are hereby repealed to the extent shown in column 3 of the Schedule.

G. I. de Deney
Clerk of the Privy Council

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

SCHEDULE

Article 15.

REPEALS

| Chapter or number | Short title | Extent of repeal |
|-------------------|--|---|
| 1971 c. 13. | The Licensing Act (Northern Ireland) 1971. | In section 34(2) the words “and paragraph 6(1) or (3) of Schedule 11”. Section 44(4). In section 45, in subsection (2), in paragraph (a) the words “during the period specified in the order” and the words “and the sale of intoxicating liquor is ancillary to that refreshment and entertainment” and in paragraph (b) the words “that throughout that period”, in subsection (3) the words “half-past”; in subsection (5) the words “half-past” and in subsection (6) the words “during any period” and the words “during that period” where they twice occur. Sections 77 and 81. In section 84(1) the definitions of “divisional commander”, “local body”, “police division” and “table meal”; in the definition of “bar” the word “drinking” and in the definition of “housing authority” the words “local or”. In Schedule 1, in paragraph 2 the words “and address”; In Schedule 7, in paragraph 3 the words “the local body or”. In Schedule 11, in paragraph 1 the definitions of “off-licence” and “on-licence”; paragraph 3(1) and (2); in paragraph 3(3) the words from “the provisions of” to “; and” and paragraphs 4 to 18 and 20. |
| 1978 NI 14. | The Licensing (Northern Ireland) Order 1978. | In Article 3, paragraphs (3) and (4)(b). |

EXPLANATORY NOTE

(This note is not part of the Order.)

This Order makes miscellaneous amendments to the Licensing Act (Northern Ireland) 1971. The main amendments are—

- (a) to prohibit the consumption of intoxicating liquor at entertainments organised for gain;
- (b) to provide new general permitted hours for off-sales;
- (c) to extend the permitted hours for public houses, airport refreshment rooms and theatres to the same hours on Sunday and Christmas Day as for hotels and restaurants;
- (d) to provide for public houses which meet certain standards to have the same additional permitted hours as hotels and restaurants;
- (e) to extend the places of public entertainment which may obtain a licence;
- (f) to provide for public houses to keep accommodation for guests;
- (g) to enable the court to suspend the operation of certain aspects of the licence; and
- (h) to increase the penalties for certain offences.