
STATUTORY INSTRUMENTS

1978 No. 1044 (N.I. 14)

NORTHERN IRELAND

The Licensing (Northern Ireland) Order 1978

Laid before Parliament in draft

Made 25th July 1978

Coming into Operation 8th August 1978

At the Court at Buckingham Palace, the 25th day of July 1978

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 (a) 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, construction and commencement

1.—(1) This Order may be cited as the Licensing (Northern Ireland) Order 1978 and shall come into operation on the fourteenth day after the day on which it is made.

(2) This Order shall be construed as one with the Licensing Act (Northern Ireland) 1971 (b).

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954 (c) 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 Act” means the Licensing Act (Northern Ireland) 1971.

Renewal of licences in respect of certain premises

3.—(1) In this Article and Article 4—

“principal business” means the business of an hotel or the business of providing accommodation for guests in premises such as are mentioned in paragraph (a) or (b) of section 84 (4) of the Act;

(a) 1974 c. 28.

(b) 1971 c. 13 (N.I.).

(c) 1954 c. 33 (N.I.).

“licensed business” means the business of selling intoxicating liquor in premises in which a principal business is carried on.

(2) Subject to paragraph (4), where a licence was granted for premises in which a principal business was carried on and an application for the renewal of the licence is made to a court of summary jurisdiction, the court, if satisfied—

- (a) that the principal business has been discontinued in consequence of damage caused to premises and an application has been, or will be made under the Criminal Injuries to Property (Compensation) Act (Northern Ireland) 1971 (a) or the Criminal Damage (Compensation) (Northern Ireland) Order 1977 (b) for compensation for that damage; and
- (b) that there is a likelihood that, within a reasonable period, either—
 - (i) the principal business will be resumed in the licensed premises; or
 - (ii) an application will be made to a county court for a new licence in lieu of the existing licence to enable the business to be carried on in other premises (whether on the same site or not); or
 - (iii) an application will be made to the county court for a new licence and the licence sought to be renewed is proposed to be surrendered as a subsisting licence;

may grant the renewal notwithstanding that—

- (A) the licensed premises have ceased to exist; or
- (B) the principal business has been discontinued; or
- (C) the premises are no longer registered under section 10 of the Development of Tourist Traffic Act (Northern Ireland) 1948 (c) or, as the case may be, no longer provide accommodation approved by the Northern Ireland Tourist Board.

(3) In consequence of paragraph (2), where—

- (a) an application for renewal of a licence for premises such as are mentioned in section 3 (1) (c) or 84 (4) of the Act was made to a court of summary jurisdiction under section 11 of the Act in the year 1973, 1974, 1975, 1976 or 1977 or is so made in the year 1978; and
- (b) the application was or is refused on any of the grounds mentioned in paragraph (2) (i) to (iii);

a further application may be made for renewal of that licence in accordance with the procedure set out in Part I of Schedule 4 to the Act as modified by Part II of that Schedule.

(4) Where—

- (a) an application such as is mentioned in paragraph (2) has been made on two previous occasions in respect of any premises; or
- (b) an application has been made under paragraph (3) and an application has also been made under paragraph (2);

the court shall not entertain a further application under paragraph (2) unless the applicant—

- (i) satisfies the court that there were reasonable grounds for the failure either to resume the principal business in the licensed premises or to make an application for a new licence; and
- (ii) produces evidence to the court that he is taking the necessary steps to resume that business or make that application within the next twelve months.

(a) 1971 c. 38 (N.I.). (b) S.I. 1977/1247 (N.I. 14). (c) 1948 c. 4 (N.I.).

(5) When in respect of any year a licence is renewed under Article 3 (2) or (3), the following provisions of the Act shall not apply to the conduct of the licensed business in the licensed premises during that year—

section 3 (3) (a) (conditions applicable to certain licences);

section 45 (additional permitted hours in hotels or restaurants providing entertainment); and

section 56 in so far as it relates to section 3 (3) (a) (selling liquor contrary to conditions).

Grant of new licence in lieu of existing licence

4.—(1) Where the holder of a licence which has been renewed under Article 3 (or which could have been so renewed if the renewal date had fallen between the date of the discontinuance of the principal business and the date when his application for a new licence comes before the county court) applies to a county court for the grant or provisional grant of a new licence in lieu of the existing licence, and the court is satisfied that the premises for which the new licence is sought are, or will be,—

(a) where the existing licence is one to which head (a) or (b) of paragraph 7 (1) of Schedule 11 to the Act applied, registered in the register of hotels maintained by the Northern Ireland Tourist Board (“the Board”) under section 10 of the Development of Tourist Traffic Act (Northern Ireland) 1948; or

(b) where the existing licence is for premises to which section 84 (4) (a) of the Act applied, an hotel as defined by section 1 (3) of the Intoxicating Liquor Act (Northern Ireland) 1923 (a) providing accommodation approved by the Board; or

(c) where the existing licence is for premises to which section 84 (4) (b) of the Act applied, registered in the register of guest houses maintained by the Board under the said section 10 and without a public bar for the sale of intoxicating liquor;

the court, if it grants the licence applied for, may order that a statement be noted on the licence and recorded in the register of licences to the effect that the licence is granted in lieu of an existing licence of that description.

(2) A note and record made in pursuance of an order under paragraph (1) in a case where sub-paragraph (a) or sub-paragraph (b) of that paragraph applies shall have the same effect as a note and record made under paragraph 7 (1) of Schedule 11 to the Act and section 84 (4) (a) of the Act respectively; and, where the note and record are made in a case where sub-paragraph (b) or sub-paragraph (c) of paragraph (1) applies, paragraph (a) and paragraph (b) respectively of section 84 (4) of the Act shall have effect as if the existing licence and the new licence were a single licence and the premises licensed under the existing licence and those licensed under the new licence were the same premises.

(3) In section 5 (2) (c) (ii) of the Act after the words “either such kind” there shall be inserted “, or a subsisting licence in respect of which the note and record mentioned in paragraph 7 of Schedule 11 have been made,”.

N. E. Leigh,
Clerk of the Privy Council.

(a) 1923 c. 12 (N.I.).

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order provides that certain licences may be renewed by a court of summary jurisdiction notwithstanding that the premises may have ceased to exist or that the business has been discontinued. To ensure that the special privileges which holders of certain existing licences enjoy on historical grounds are not lost merely because the licensed business has been temporarily discontinued, the Order provides that where a county court grants a new licence in lieu of such an existing licence, the court may continue the former privileges in relation to the new licence.