
STATUTORY INSTRUMENTS

1989 No. 1999 (N.I. 16)

NORTHERN IRELAND

**The Licensing and Clubs (Amendment)
(Northern Ireland) Order 1989**

Made - - - - 1st November 1989

Coming into operation in accordance with Article 1

At the Court at Buckingham Palace, the 1st day of November 1989

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⁽¹⁾ 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 and Clubs (Amendment) (Northern Ireland) Order 1989.

(2) Except as provided by paragraph (3) this Order shall come into operation on the expiration of 2 months from the day on which it is made.

(3) Articles 1, 2 and 4 shall come into operation forthwith.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954⁽²⁾ 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 Licensing Act” means the Licensing Act (Northern Ireland) 1971⁽³⁾.

(1) 1974 c. 28
(2) 1954 c. 33 (N.I.)
(3) 1971 c. 13 (N.I.)

Ancillary businesses in certain licensed premises

3. In section 28 of the Licensing Act (ancillary businesses which may be carried on in certain licensed premises) after subsection (6) there shall be added the following subsection—

“(7) The Department may by regulations, made subject to affirmative resolution, modify the ancillary businesses mentioned in subsection (2).”.

Extension licences and special occasion authorisations where new year’s eve falls on Sunday

4.—(1) In section 49 of the Licensing Act (extension licences)—

(a) in subsection (7) at the beginning there shall be inserted “Subject to subsection (7A),”;

(b) after subsection (7) there shall be inserted the following subsection—

“(7A) Where 31st December in any year falls on a Sunday, an extension licence may authorise the sale of intoxicating liquor on that day after ten in the evening.”.

(2) In Article 25 of the Registration of Clubs (Northern Ireland) Order 1987(4) (special occasion authorisations)—

(a) in paragraph (3) at the beginning there shall be inserted “Subject to paragraph (3A),”;

(b) after paragraph (3) there shall be inserted the following paragraph—

“(3A) Where 31st December in any year falls on a Sunday, an authorisation under paragraph (1) may authorise the supply of intoxicating liquor on that day after 10 in the evening.”.

Restriction on sale of intoxicating liquor in certain premises and hotels for consumption off the premises

5. In section 57 of the Licensing Act (conditions as to sale, etc., of intoxicating liquor for consumption off the premises) for subsection (1) there shall be substituted the following subsection—

“(1) The holder of a licence for premises of a kind mentioned in section 3(1)(a) or an hotel shall not, himself or by his servant or agent, sell intoxicating liquor to, or make it available for purchase by, any person for consumption off the premises—

(a) on weekdays or Good Friday after nine in the evening; or

(b) on Sunday or Christmas Day.”.

Defences to proceedings for offences relating to minors

6.—(1) In section 61(5) of the Licensing Act (minors prohibited from bars) for paragraphs (a) and (b) there shall be substituted—

“(a) in the case of proceedings against the holder of the licence for an offence committed by his servant or agent, for the holder of the licence to prove that he exercised all due diligence to avoid the commission of such an offence; or

(b) in any other case, for the holder of the licence or his servant or agent to prove—

(i) that he exercised all due diligence to avoid the commission of such an offence; or

(ii) that he had no reason to suspect that the minor was not of full age.”.

(2) In section 62 of the Licensing Act (sale, etc., of intoxicating liquor to minors)—

(a) in subsection (1)(c) the word “knowingly” shall be omitted;

- (b) for subsection (7) there shall be substituted the following subsection—
- “(7) In any proceedings for an offence by reason of a contravention of subsection (1) it shall be a defence—
- (a) in the case of proceedings against the holder of the licence for an offence committed by his servant or agent, for the holder of the licence to prove that he exercised all due diligence to avoid the commission of such an offence; or
 - (b) in any other case, for the holder of the licence or his servant or agent to prove—
 - (i) that he exercised all due diligence to avoid the commission of such an offence; or
 - (ii) that he had no reason to suspect that the minor was not of full age.”.

Definition of “intoxicating liquor”

7. In section 84(1) of the Licensing Act (interpretation) in the definition of “intoxicating liquor”—

- (a) after paragraph (d) there shall be inserted—
- “(e) any liquor which, whether made on the premises of a brewer for sale or elsewhere, is found on analysis of a sample thereof at any time to be of an original gravity not exceeding 1016° and of a strength not exceeding 1.2 per cent.”;
- (b) for the words “paragraphs (a) and (d) above” there shall be substituted the words “paragraphs (a), (d) and (e) above”.

Minor and pre-consolidation amendments

8.—(1) In section 7(8) of the Licensing Act (provisional grant of licences) for “subsection (7) (b)” there shall be substituted “subsection (7)”.

(2) In section 43 of the Licensing Act (permitted hours in hotels and restaurants on Sunday and Christmas Day)—

- (a) in paragraph (i) the words from “(except” onwards shall be omitted;
- (b) the words “the hours” in the second place where they occur shall be omitted;
- (c) in paragraph (a) at the beginning there shall be inserted “except in respect of premises for which a direction under section 5(5C) or 12(3B)(a) is in force, the hours”;
- (d) in paragraph (b) at the beginning there shall be inserted “the hours”.

(3) In section 45(4) of the Licensing Act (additional permitted hours in hotels or restaurants providing entertainment)—

- (a) in the first paragraph (b) after “premises;” there shall be added “or”;
- (b) for the words from “the court may” to the end there shall be substituted—
 - “ the court may—
 - (i) revoke the order; or
 - (ii) modify the order or, in relation to the order, the hours mentioned in subsection (1); or
 - (iii) make the continuance of the order subject to such terms and conditions as the court thinks fit.”.

(4) In section 48(a) of the Licensing Act (consumption after permitted hours of liquor bought during those hours) for “of a kind mentioned in section 3(1)(b)” there shall be substituted—

“(i) part of premises of a kind mentioned in section 3(1)(a) with respect to which an order under section 44 is in force; or

(ii) of a kind mentioned in section 3(1)(b);”.

(5) In section 84(1) of the Licensing Act for the definition of “resident” there shall be substituted—

““resident”, in relation to premises of a kind mentioned in section 3(1)(a) or an hotel, means a guest or traveller who has lodged in the premises or hotel for the preceding night or has in writing engaged a room for the succeeding night;”.

Repeals

9. The following provisions in the Licensing Act are hereby repealed, that is to say—

- (a) in section 43, in paragraph (i) the words from “(except” onwards and the words “the hours” in the second place where they occur;
- (b) in section 45—
 - (i) in subsection (1) the words “but subject to the condition mentioned in subsection (3) (where applicable);”;
 - (ii) in subsection (2)(b)(i) the words “and the condition mentioned in subsection (3) (if applicable);”;
 - (iii) subsection (3);
- (c) in section 48(b) the words “or of a condition inserted in the licence under section 45(3)” where they twice occur;
- (d) in section 62(1)(c) the word “knowingly”;
- (e) in paragraph 4(c) of Schedule 8A the words “and the condition mentioned in section 45(3) (if applicable) has not been;”.

G. I. de Deney
Clerk of the Privy Council

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes the following miscellaneous amendments to the Licensing Act (Northern Ireland) 1971—

- (a) to enable the Department of Health and Social Services to modify by regulations the ancillary businesses which may be carried on in public houses and off-licensed premises;
- (b) to restrict sales of intoxicating liquor in hotels and public houses after nine in the evening to sales for consumption in the premises only;
- (c) to amend and assimilate the defences to the offences of permitting minors to be in bars and selling intoxicating liquor to minors;
- (d) to amend the definition of intoxicating liquor to include liquor which is found on analysis of a sample thereof at any time to exceed a strength of 1.2 per cent.;
- (e) to extend the definition of “resident” to include a guest or traveller taking accommodation in certain public houses;
- (f) to make pre-consolidation amendments.

It also amends provisions in the Licensing Act (Northern Ireland) 1971 and the Registration of Clubs (Northern Ireland) Order 1987 to permit extension licences or special occasion authorisations to be granted for the 31st December in any year where that date falls on a Sunday. Draft Order in Council laid before Parliament under the Northern Ireland Act 1974, Schedule 1 paragraph 1(4)(a), for approval by resolution of each House of Parliament.