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STATUTORY INSTRUMENTS

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**1990 No. 594**

**The Licensing (Northern Ireland) Order 1990**

**PART III**

**PERMITTED HOURS**

**Prohibition of sale, etc., of intoxicating liquor outside permitted hours**

**46.**—(1) Except as permitted by or under this Order, a person shall not—

- (a) himself or by his servant or agent—
  - (i) sell intoxicating liquor in licensed premises, or
  - (ii) permit the consumption of intoxicating liquor in licensed premises, or
- (b) purchase intoxicating liquor in licensed premises, or
- (c) consume intoxicating liquor in licensed premises, or
- (d) take intoxicating liquor from licensed premises,

except during the permitted hours.

(2) Any person who contravenes this Article shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(3) This Article shall not apply to licensed premises such as are mentioned in Article 65(1) at an international airport.

*The permitted hours*

**General permitted hours**

**47.**—(1) Subject to the succeeding provisions of this Part, the permitted hours for premises of a kind mentioned in Article 6(1)(a), (c), (d), (f) and (g) are the hours—

- (a) on week-days, other than Good Friday or Christmas Day, from half past 11 in the morning to 11 in the evening; and
- (b) on Good Friday from 5 in the afternoon to 11 in the evening.

(2) The permitted hours for premises of a kind mentioned in Article 6(1)(b) are the hours on week-days, other than Christmas Day, from half past 9 in the morning to 9 in the evening.

**Permitted hours in certain premises on Sunday and Christmas Day**

**48.** In addition to the hours mentioned in Article 47(1), the permitted hours for—

- (a) premises of a kind mentioned in Article 6(1)(a);
- (b) an hotel;
- (c) a restaurant;

- (d) a refreshment room in an airport;
- include—
- (i) except in the case of such premises mentioned in sub-paragraph (a) with respect to of which a direction under Article 8(7) or 16(4)(a) is in force, the hours on Sunday (not being Christmas Day) from half past 12 in the afternoon to 10 in the evening with a break of 4 and a half hours beginning at half past 2 in the afternoon; and
  - (ii) the hours on Christmas Day from half past 12 in the afternoon to 10 in the evening.

#### **Alternative permitted hours for off-sales**

**49.**—(1) A court which grants a licence or declares a licence provisionally granted to be final or renews a licence for premises of a kind mentioned in Article 6(1)(a) may, upon the application of the person applying for the grant, declaration or renewal, by order direct that the permitted hours for a part of the premises for which the court imposes a condition under paragraph (2) shall be the hours mentioned in Article 47(2).

(2) Where a court which grants or renews a licence for premises of a kind mentioned in Article 6(1)(a) or declares a licence provisionally granted for such premises to be final is satisfied—

- (a) that a specified part of the premises is structurally adapted for the sale of intoxicating liquor for consumption off the premises, and
- (b) that the specified part is 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,

the court may insert in the licence a condition that the specified part shall not be used for the sale of intoxicating liquor for consumption in the premises.

(3) An order under paragraph (1) and the condition, if any, inserted under paragraph (2) may be revoked by a court of summary jurisdiction—

- (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(1), the court is not satisfied, in a case where the order was made under paragraph (1), that the condition mentioned in paragraph (2) has been, and the requirements of sub-paragraphs (a) and (b) of that paragraph have continued to be, complied with.

#### **Additional permitted hours in certain premises providing entertainment**

**50.**—(1) Subject to the provisions of this Article and Article 18(3), 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 Article 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 11 in the evening to 1 in the morning of the day next following shall, in addition to the hours mentioned in Articles 47(1) and 48, be included in the permitted hours for those premises.

(2) The procedure for applications under paragraph (1) is set out in Schedule 9.

(3) A court shall not make an order under paragraph (1) unless it is satisfied—

- (a) that each part of the premises specified in the order is structurally adapted and used or intended to be used for the purpose of habitually providing, for the accommodation of persons frequenting it, musical or other entertainment as well as substantial refreshment; and
  - (b) if such an order was in force with respect to the premises during the preceding year, that—
    - (i) the requirements of sub-paragraph (a) were complied with; and
    - (ii) the business was conducted during the hours mentioned in paragraph (1) and any period immediately following their termination in such a manner as not to cause undue inconvenience to persons residing in the vicinity of the premises; and
    - (iii) the hours mentioned in paragraph (1) have not caused undue inconvenience to persons residing in the vicinity of the premises.
- (4) Where upon complaint made under Part VIII of the Magistrates' Courts (Northern Ireland) Order 1981(2), a court of summary jurisdiction is satisfied—
- (a) that the business carried on in premises to which an order under paragraph (1) applies is being conducted during the hours mentioned in that paragraph or any period immediately following their termination in such a manner as to cause undue inconvenience to persons residing in the vicinity of the premises; or
  - (b) that such hours are causing undue inconvenience to persons residing in the vicinity of the premises; or
  - (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,
- the court may—
- (i) revoke the order; or
  - (ii) modify the order or, in relation to the order, the hours mentioned in paragraph (1); or
  - (iii) make the continuance of the order subject to such terms and conditions as the court thinks fit.
- (5) Nothing in this Article shall permit an order to authorise the sale of intoxicating liquor on any Sunday after 1 in the morning, or on Christmas Day, Easter Day or Good Friday, or to a person admitted to the premises after half past 12 in the morning or, where the entertainment is due to end before 1 in the morning, less than half an hour before the entertainment is due to end.
- (6) In this Article “entertainment” does not include any form of entertainment given otherwise than by persons actually present and performing, and no part of any premises shall be treated for the purposes of this Article as used or intended to be used for the purpose of habitually providing refreshment and entertainment unless it is used or intended to be used for the purpose of providing them after, and for a substantial period preceding, the end of the general permitted hours mentioned in Article 47(1) on every weekday or on particular weekdays in every week, any break for a period or periods not exceeding 2 weeks in any 3 successive months, or on any special occasion, or by reason of any emergency being disregarded.
- (7) The premises to which this Article applies are—
- (a) an hotel;
  - (b) a restaurant;
  - (c) any part of premises of a kind mentioned in Article 6(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.

### **Permitted hours for places of public entertainment**

**51.** The permitted hours for a place of public entertainment are that part of the hours mentioned in Article 47(1) and in the case of a theatre, Article 48 which comprises—

- (a) the period of an entertainment; and
- (b) periods, not exceeding 30 minutes in each case, which immediately precede the commencement and immediately succeed the termination of an entertainment.

### *Exceptions*

### **Residents in, and deliveries to, certain premises**

**52.** The foregoing provisions of this Part shall not prohibit or restrict the doing of any of the following things outside the permitted hours—

- (a) the selling of intoxicating liquor to a resident in premises of a kind mentioned in Article 6(1)(a) which provides accommodation for guests such as is mentioned in Article 33(3) or an hotel or the taking of it by him from such premises or hotel, or the consumption or permitting consumption of it in such premises or hotel by him or his guests;
- (b) the dispatch, in a vehicle or receptacle, by the holder of a licence for premises which are either of a kind mentioned in Article 6(1)(a) or (b) or an hotel to which Article 6(5)(b)(ii) applies, of intoxicating liquor sold by him for delivery and consumption off the premises.

### **Consumption or removal after permitted hours of liquor bought during those hours**

**53.** Where intoxicating liquor is sold in licensed premises during the permitted hours, the foregoing provisions of this Part shall not prohibit—

- (a) during the first 30 minutes after the conclusion of the permitted hours and in premises of a kind mentioned in Article 6(1)(a), an hotel, a restaurant, a refreshment room in an airport or a theatre on a Sunday during the first 30 minutes after the beginning of the afternoon break, except where the premises are—
  - (i) part of premises of a kind mentioned in Article 6(1)(a) with respect to which an order under Article 49 is in force; or
  - (ii) of a kind mentioned in Article 6(1)(b);
 the consumption or permitting consumption of the liquor in the premises;
- (b) during the first 30 minutes after the conclusion of the permitted hours, the taking of the liquor from the premises in a sealed container, if the premises are—

- (i) of a kind mentioned in Article 6(1)(a) (except where the liquor is taken from a part of the premises with respect to which an order under Article 49 is in force or where the liquor was sold in contravention of Article 63(1); or
- (ii) an hotel (except where the liquor was sold in contravention of Article 6(3)(b) or 63(1)).

### *Extension licences*

#### **Extension licences for sale, etc., of liquor in certain premises outside permitted hours**

**54.**—(1) A court of summary jurisdiction, or a clerk of petty sessions acting under paragraph (3), 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 Article applies, grant an extension licence authorising that person to sell intoxicating liquor by retail—

- (a) in such part or parts of the premises to which this Article applies, and
- (b) between such hours,

as may be specified in the extension licence.

(2) The procedure for applications for extension licences is set out in Schedule 10.

(3) Subject to paragraph (4), where notice of an application for an extension licence has been served upon the clerk of petty sessions, he may grant the extension licence as if the application had been made to him and may do so in the absence of the applicant.

(4) Where—

- (a) a notice of objection has been served upon the clerk and has not been withdrawn, or
- (b) the clerk is of the opinion, for any other reason, that an application for the extension licence should be made to the court,

the clerk shall require the application to be made to the court and shall notify the applicant and the objector, if any, of the requirement and of the time and place of the hearing.

(5) An extension licence shall not be granted unless the clerk of petty sessions, or, if application is required to be made to a court, the court, is satisfied that the sale of intoxicating liquor under the licence will be ancillary to a function to which this paragraph applies which is to be held in the premises to which this Article applies during the hours specified in the licence.

(6) The functions to which paragraph (5) applies are—

- (a) functions organised by any body established for social, charitable or benevolent purposes or for furthering the common interests of persons associated with any trade, profession, educational or cultural activity, game or sport;
- (b) functions (not exceeding 6 in number in any year) organised by the licence holder.

(7) Subject to paragraph (8), nothing in this Article shall permit an extension licence to authorise the sale of intoxicating liquor on any Sunday after 1 in the morning, or on Christmas Day, Easter Day or Good Friday, or during any part of the period from 1 in any morning to half past 11 in that morning or to a person admitted to the premises after half past 12 in the morning or, where the function is due to end before 1 in the morning, less than half an hour before the function is due to end.

(8) Where 31st December in any year falls on a Sunday, an extension licence may authorise the sale of intoxicating liquor on that day after 10 in the evening.

(9) An extension licence shall not authorise the sale of intoxicating liquor for consumption off the part or parts of the premises specified in the licence.

(10) If the holder of an extension licence or any servant or agent of his sells intoxicating liquor in contravention of paragraph (9), the holder of the licence shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(11) Where an extension licence is in force in connection with a function, Article 46 shall not prohibit—

- (a) the purchase by persons lawfully attending the function of intoxicating liquor during the hours specified in the licence; or
- (b) the consumption by those persons, or permitting their consumption, of intoxicating liquor during those hours and the first 30 minutes after the conclusion of those hours,

in the part or parts of the premises so specified.

(12) An extension licence granted in connection with a function in any premises shall, at any time during the period of the function when intoxicating liquor is sold or made available for purchase or being consumed in the premises, forthwith be produced by the person who is in charge of the sale of intoxicating liquor there for examination by a constable at his request, and if it is not so produced without reasonable excuse the holder of the licence and that person shall each be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(13) The premises to which this Article applies are the premises mentioned in Article 50(7) for which an order under Article 34 is in force.

#### *Miscellaneous*

#### **Persons found on licensed premises outside permitted hours, etc.**

**55.**—(1) Where a person is found on licensed premises outside the permitted hours or any period such as is mentioned in Article 53,—

- (a) he shall, unless he proves that he is there for a lawful purpose, be guilty of an offence; and
- (b) the holder of the licence if, himself or by his servant or agent, he permits that person to be there and does not prove that he is there for a lawful purpose shall be guilty of an offence;

and shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(2) Where, on being asked by a constable for his name and address, a person found on licensed premises outside the permitted hours or such a period as aforesaid—

- (a) refuses to give them; or
- (b) gives a false name or address; or
- (c) refuses to answer satisfactorily any question put to him to ascertain the correctness of the name or address given,

he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

#### **Power of Secretary of State to vary hours in certain circumstances**

**56.** Where it appears to the Secretary of State that it is expedient for the preservation of public order that the permitted hours should be restricted or there should be no permitted hours, he may by order direct that in such place or places as may be specified in the order and on such day or days, not exceeding 3 in number, and in premises of such kind or kinds as may be so specified the permitted hours shall be the hours so specified or there shall be no permitted hours.