
STATUTORY INSTRUMENTS

2008 No. 1216

The Criminal Justice (Northern Ireland) Order 2008

PART 5

MISCELLANEOUS AND SUPPLEMENTARY

Purchase and consumption of alcohol

Test purchases of alcohol

67. After Article 60 of the [Licensing \(Northern Ireland\) Order 1996 \(NI 22\)](#) insert—

“Test purchases of alcohol

60A.—(1) Articles 58 and 60(2)(a) and (4) do not apply in relation to a person under the age of 18 who is sent into licensed premises to purchase intoxicating liquor by a constable who is acting in the course of his duty.

(2) A constable may not send a person under the age of 18 into any licensed premises to purchase intoxicating liquor unless—

- (a) the constable is satisfied that all reasonable steps have been or will be taken to avoid any risk to the welfare of that person; and
- (b) that person and a parent of that person have both consented in writing to his being sent into those premises for that purpose.

(3) The Secretary of State shall issue guidance as to the exercise by constables of their powers under this Article.”.

Alcohol consumption in designated public places

68.—(1) Paragraph (2) applies if a constable reasonably believes that a person is, or has been, consuming intoxicating liquor in a designated public place or intends to consume intoxicating liquor in such a place.

(2) The constable may require the person concerned—

- (a) not to consume in that place anything which is, or which the constable reasonably believes to be, intoxicating liquor;
- (b) to surrender anything in his possession which is, or which the constable reasonably believes to be, intoxicating liquor or a container for such liquor.

(3) A constable may dispose of anything surrendered to him under paragraph (2) in such manner as he considers appropriate.

(4) A person who fails without reasonable excuse to comply with a requirement imposed on him under paragraph (2) commits an offence and is liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(5) A constable who imposes a requirement on a person under paragraph (2) shall inform the person concerned that failing without reasonable excuse to comply with the requirement is an offence.

Fixed penalty notice for offence under Article 68

69.—(1) A constable who has reason to believe that a person aged 16 or over has committed an offence under Article 68 may give that person a notice offering him the opportunity of discharging any liability to conviction for that offence by payment of a fixed penalty in accordance with this Article.

- (2) A notice under paragraph (1) may not be given by a constable unless—
- (a) in the case of a notice given at a police station, the constable is authorised by the Chief Constable to give notices under this Article;
 - (b) in the case of a notice given elsewhere, the constable is in uniform.
- (3) The Secretary of State may by order—
- (a) amend paragraph (1) by substituting for the age for the time being specified in that paragraph a different age which is not lower than 10; and
 - (b) if that different age is lower than 16 make provision as follows—
 - (i) where a person whose age is lower than 16 is given a notice, for a parent or guardian of that person to be notified of the giving of the notice; and
 - (ii) for that parent or guardian to be liable to pay the penalty under the notice;
 and an order under sub-paragraph (b) may amend or apply (with or without modification) any statutory provision (including this Part).
- (4) Where a person is given a notice under this Article in respect of an offence—
- (a) no proceedings may be instituted for that offence before the expiration of the period of 21 days following the date of the notice or such longer period as may be specified in the notice; and
 - (b) he shall not be convicted of that offence if he pays the fixed penalty before the expiration of that period (or that longer period)
- (5) A notice under this Article must—
- (a) be in such form as the Secretary of State may by regulations prescribe;
 - (b) give such particulars of the circumstances alleged to constitute the offence as are necessary for giving reasonable information about the offence;
 - (c) state the period during which, by virtue of paragraph (4), proceedings will not be taken for the offence;
 - (d) state the amount of the fixed penalty; and
 - (e) state the person to whom and the address at which the fixed penalty may be paid.
- (6) The fixed penalty payable in respect of a notice under this Article is such amount (not exceeding one quarter of level 2 on the standard scale) as the Secretary of State may specify by order; and different amounts may be specified for persons of different ages.
- (7) Payment of a fixed penalty shall be made to, or at the office of, the clerk of petty sessions specified in the notice under this Article, or to such other person or to or at such other office as the Secretary of State may by order direct.
- (8) Sums paid by way of a fixed penalty for any offence shall be treated as if they were fines imposed on summary conviction of that offence.

(9) In any proceedings a certificate that payment of a fixed penalty was or was not made by a date specified in the certificate to or at the office of the appropriate clerk of petty sessions, or to such other person or to or at such other office as the Secretary of State has directed under paragraph (7), shall, if the certificate purports to be signed by the clerk of petty sessions or such other person as the Secretary of State has directed under paragraph (7), be sufficient evidence of the facts stated unless the contrary is proved.

(10) The Secretary of State may by regulations prescribe—

- (a) the duties under this Article of persons or offices specified by an order made under paragraph (7); and
- (b) the information to be supplied to or by clerks of petty sessions and to such other persons or offices.

(11) In any proceedings for an offence under Article 68, no reference shall be made to the giving of any notice under this Article, or to the payment or non-payment of a fixed penalty under this Article, unless in the course of the proceedings, or in some document which is before the court in connection with the proceedings, reference has been made by or on behalf of the accused to the giving of such notice or, as the case may be, to such payment or non-payment.

Designated public places

70.—(1) A place is, subject to paragraph (2), a designated public place if it is—

- (a) a public place in the district of a council; and
- (b) identified in an order made by that council under paragraph (3).

(2) A place is not a designated public place or a part of such a place if it is—

- (a) licensed premises or a place within the curtilage of such premises;
- (b) a registered club or a place within the curtilage of such a club; or
- (c) a place at which the sale of intoxicating liquor is for the time being authorised by an occasional licence.

(3) A council may for the purposes of paragraph (1) by order identify any public place in its district if it is satisfied that—

- (a) nuisance or annoyance to members of the public or a section of the public; or
- (b) disorder,

has been associated with the consumption of intoxicating liquor in that place.

(4) The power conferred by paragraph (3) includes power—

- (a) to identify a place either specifically or by description;
- (b) to revoke or amend orders previously made.

(5) The Secretary of State shall by regulations prescribe the procedure to be followed in connection with the making of orders under paragraph (3).

(6) Regulations under paragraph (5) shall, in particular, include provision requiring councils to publicise the making and effect of orders under paragraph (3).

Effect of Articles 68 and 70 on byelaws

71.—(1) Paragraphs (2) and (3) apply to any byelaw which—

- (a) prohibits, by the creation of an offence, the consumption in a particular public place of intoxicating liquor (including any liquor of a similar nature which falls within the byelaw); or

(b) makes any incidental, supplementary or consequential provision.

(2) In so far as any byelaw to which this paragraph applies would, apart from this paragraph, have effect in relation to any designated public place, the byelaw—

(a) shall cease to have effect in relation to that place; or

(b) where it is made after the order under Article 70(3), shall not have effect in relation to that place.

(3) In so far as any byelaw made by a council and to which this paragraph applies still has effect at the end of the period of 3 years beginning with the day on which this paragraph comes into operation, it shall cease to have effect at the end of that period in relation to any public place.

Interpretation of Articles 68 to 71

72. In Articles 68 to 71—

“council” means a district council;

“designated public place” has the meaning given by Article 70(1);

“intoxicating liquor”, “licensed premises” and “occasional licence” have the same meanings as in the [Licensing \(Northern Ireland\) Order 1996 \(NI 22\)](#);

“public place” means any place to which the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission

“registered club” has the same meaning as in the [Registration of Clubs \(Northern Ireland\) Order 1996 \(NI 23\)](#).