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STATUTORY INSTRUMENTS

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**1990 No. 594**

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

**PART II**

**THE GENERAL LICENSING SYSTEM**

*Structure, etc., of licensed premises*

**Separation of certain licensed premises from other business premises**

**33.**—(1) Subject to paragraph (8), a business, other than that authorised by the licence and the ancillary businesses mentioned in paragraph (2), shall not be carried on in premises of a kind mentioned in Article 6(1)(a) or (b).

(2) The ancillary businesses are the businesses of—

- (a) selling tobacco, cigarettes, cigars, matches and lighters;
- (b) selling table waters, fruit juices, angostura bitters and confectionery containing intoxicating liquor;
- (c) selling crisps and similar snack products and packaged nuts;
- (d) selling cork-screws and other bottle openers;
- (e) selling intoxicating liquor by wholesale;
- (f) in the case of premises of a kind mentioned in Article 6(1)(a)—
  - (i) selling meals and refreshments;
  - (ii) providing entertainment;
  - (iii) providing accommodation for guests such as is mentioned in paragraph (3).

(3) The accommodation for guests which is provided under paragraph (2)(f)(iii) shall be accommodation—

- (a) 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<sup>(1)</sup>; and
- (b) which conforms to the requirements, if any, prescribed by regulations made with the concurrence of the Department of Economic Development.

(4) The ancillary businesses other than the business mentioned in paragraph (2)(f)(iii), shall be carried on in the premises only during the periods when the business authorised by the licence may lawfully be carried on.

(5) Subject to paragraph (7), premises of a kind mentioned in Article 6(1)(a) or (b) shall be so constructed that there is no internal means of passage between them and other premises in which a business is carried on.

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<sup>(1)</sup> 1948 c. 4 (N.I.)

(6) Where—

- (a) any article is sold or made available for purchase in the course of a business which is carried on in contravention of paragraph (1) or (4), or
- (b) intoxicating liquor is sold or made available for purchase in premises of a kind mentioned in Article 6(1)(a) or (b) which do not comply with paragraph (5),

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, and where sub-paragraph (a) or, as the case may be, sub-paragraph (b) is again contravened within 1 year after the conviction to a further fine not exceeding £100 for every day subsequent to the day on which he is first convicted of an offence under this paragraph on which it is so contravened.

(7) Paragraph (5) shall not prohibit internal means of passage between—

- (a) premises of a kind mentioned in Article 6(1)(a) and a restaurant for which a licence is in force, if that means of passage is not open to customers during the periods when the sale or consumption of intoxicating liquor in premises of the said kind is not permitted under this Order;
- (b) premises of a kind mentioned in Article 6(1)(a) or (b) and
  - (i) other premises of either such kind; or
  - (ii) premises in which the only business carried on is the business of selling intoxicating liquor by wholesale.

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

(9) The Department may by regulations, made subject to affirmative resolution, modify the ancillary businesses mentioned in paragraph (2).

#### **Suitability of certain premises for functions**

**34.—**(1) A court which grants a licence for premises mentioned in Article 50(7) or declares such a licence to be final or renews such a licence may, upon the application of the person applying for the grant, declaration or renewal, by order specify any part of the premises as being suitable for functions such as are mentioned in Article 54(6), if the court—

- (a) is satisfied of that fact; and
- (b) is also satisfied that—
  - (i) that part of the premises is structurally adapted and used or intended to be used for the purpose of providing for the accommodation of persons frequenting it substantial refreshment to which the sale of intoxicating liquor is ancillary; and
  - (ii) suitable means of access to that part of the premises, otherwise than through any other part of the premises which is used for the sale of intoxicating liquor, are available for customers.

(2) An order under paragraph (1) may be revoked by a court of summary jurisdiction on the renewal of the licence—

- (a) at the request of the person applying for the renewal; or
- (b) if the court is not satisfied of the continuance of the facts mentioned in paragraph (1)(a) and (b).

#### **Restaurant not to contain bar**

**35.—**(1) A restaurant which is licensed for the sale of intoxicating liquor shall not contain a bar.

(2) Where intoxicating liquor is sold or made available for purchase in a restaurant which does not comply with paragraph (1), 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, and where this paragraph is again contravened, within 1 year after the conviction to a further fine not exceeding £100 for every day subsequent to the day on which he is first convicted of an offence under this paragraph on which it is so contravened.

### **Consent required for certain alterations to premises**

**36.**—(1) An alteration shall not be made to premises for which a licence is in force if the alteration—

- (a) gives increased facilities for drinking in a public or common part of the premises; or
- (b) adds to the premises a public or common part in which intoxicating liquor is sold, or substitutes one such part for another; or
- (c) conceals from observation a public or common part of the premises in which intoxicating liquor is sold; or
- (d) affects the means of passage between the public part of the premises where intoxicating liquor is sold and the remainder of the premises or any road or other public place,

unless either—

- (i) an application under this Article has been made by the holder of the licence to a county court and the court has made an order consenting to the alteration; or
- (ii) the alteration is required by order of some lawful authority and, before the alteration is made, notice of the requirement is served by the holder of the licence on the clerk of petty sessions for the petty sessions district in which the premises are situated.

(2) The procedure for applications under paragraph (1)(i) is set out in Part I of Schedule 8, and Part II of that Schedule shall have effect in relation to notices under paragraph (1)(ii).

(3) If any alteration such as is mentioned in paragraph (1) is made to premises otherwise than in accordance with an order of the county court or an order of some lawful authority, a court of summary jurisdiction may order the holder of the licence to restore, as far as is practicable, the premises to their original condition within a period fixed by the order.

(4) The period fixed by an order under paragraph (3) may be extended by order of a court of summary jurisdiction on the application of the holder of the licence.

(5) If paragraph (1)(ii) is not complied with, the holder of the licence shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(6) If the holder of the licence makes default in complying with an order under paragraph (3), 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 to both.

### **New licence required on reconstruction of premises**

**37.**—(1) Subject to paragraphs (2) and (3), where licensed premises (in this Article referred to as “the original premises”) are wholly or substantially destroyed or demolished and are or are to be reconstructed (with or without any extension), the licence for the original premises shall, if duly renewed and not suspended, continue in force to the extent necessary—

- (a) to enable an order to be made under Article 31(1) for the temporary continuance of the business in other (including temporary) premises; and
- (b) to enable the licence to be surrendered as a subsisting licence in consideration of the grant of a new licence;

but shall not be authority for the sale of intoxicating liquor in the reconstructed premises.

(2) Paragraph (1) shall not apply in the case of an hotel where the destruction, demolition or reconstruction does not affect any public or common part of the premises in which intoxicating liquor is sold.

(3) Paragraph (1) shall not apply to the demolition and reconstruction of part of any premises solely in the course of an alteration which is consented to or required as mentioned in Article 36(1) or is ordered to be made as mentioned in Article 36(3).