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STATUTORY INSTRUMENTS

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**1996 No. 3158**

**The Licensing (Northern Ireland) Order 1996**

**PART III**

**PERMITTED HOURS**

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

**41.**—(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 53(1) at an international airport.

*The permitted hours*

**General permitted hours**

**42.**—(1) Subject to the succeeding provisions of this Part, the permitted hours for premises of a kind mentioned in Article 5(1), except premises of a kind mentioned in Article 5(1)(b) or a place of public entertainment, 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; and
- (c) except in the case of premises of a kind mentioned in Article 5(1)(a) with respect to which a direction under Article 7(10) or 15(5)(a) is in force, on Sunday or Christmas Day from half past 12 in the afternoon to 10 in the evening.

(2) The permitted hours for premises of a kind mentioned in Article 5(1)(b) are the hours—

- (a) on week-days, other than Christmas Day, from 8 in the morning to 11 in the evening; and
- (b) on Sunday, not being Christmas Day or Easter Day, from 10 in the morning to 10 in the evening.

(3) The permitted hours for a place of public entertainment are that part of the hours mentioned in paragraph (1)(a) and (b) and, in the case of a theatre, paragraph (1)(c) 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.

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

**43.**—(1) In respect of premises of a kind mentioned in Article 5(1)(a),—

- (a) a county court which grants a licence or declares a licence provisionally granted to be final, on the application of the person applying for the grant or declaration, or
- (b) a court of summary jurisdiction, at any time, upon the application of the holder of the licence for those premises made in compliance with the procedure set out in Schedule 9,

may, 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 42(2).

(2) A court shall not make an order under paragraph (1) unless it 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,

and 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, 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.

#### **Orders for additional permitted hours**

**44.**—(1) Subject to Article 17(3), where part or parts of premises, which are or include premises to which this Article applies, are structurally adapted and used, or intended to be used, for the purpose of habitually providing, for the accommodation of persons frequenting it, such entertainment or refreshment as is mentioned in paragraph (2)(i), (ii) or (iii) and the sale of intoxicating liquor is ancillary to that entertainment or refreshment—

- (a) a county court which grants a licence or declares a licence provisionally granted to be final, on the application of the person applying for the grant or declaration, or
- (b) a court of summary jurisdiction, at any time, upon the application of the holder of the licence for those premises made in compliance with the procedure set out in Schedule 9,

may make an order under this paragraph.

(2) An order under paragraph (1) may direct that, on such days as may be specified in the order, the hours—

- (a) on week-days from 11 in the evening to 1 in the morning of the day next following, and

- (b) on Sunday, not being 31st December, from 10 in the evening to 12 in the evening, and
- (c) on Sunday, being 31st December, from 10 in the evening to 1 in the morning of the day next following,

shall, in addition to the hours mentioned in Article 42(1), be included in the permitted hours for any such part or parts of the premises specified in the order for the purposes of the sale, before the provision of—

- (i) musical or other entertainment; or
- (ii) substantial refreshment; or
- (iii) both such entertainment and refreshment;

has ended, of intoxicating liquor for consumption on any such part or parts of the premises, and the consumption of such liquor.

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

- (a) the business will be conducted during the hours mentioned in paragraph (2) 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
- (b) the hours mentioned in paragraph (2) will not cause undue inconvenience to persons residing in the vicinity of the premises.

(4) An order under paragraph (1) may be revoked by a court of summary jurisdiction on the application of the holder of the licence.

(5) Where, upon complaint made under Part VIII of the Magistrates' Courts (Northern Ireland) Order 1981, 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 paragraph (2) 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 entertainment or substantial refreshment or both entertainment and substantial refreshment, as the case may require,

the court may—

- (i) revoke the order; or
- (ii) modify the order or, in relation to the order, the hours mentioned in paragraph (2); or
- (iii) make the continuance of the order subject to such terms and conditions as the court thinks fit.

(6) Nothing in this Article shall permit an order under paragraph (1) to authorise the sale of intoxicating liquor—

- (a) on Christmas Day, Easter Day or Good Friday, or
- (b) to a person admitted to the premises—
  - (i) less than 30 minutes before the end of the hours mentioned in paragraph (2), or
  - (ii) where the provision of entertainment or substantial refreshment or both entertainment and substantial refreshment is due to cease before the end of those hours, less than 30 minutes before that cessation.

(7) Nothing in paragraph (2) shall require the provision of substantial refreshment during the 30 minutes before the end of the hours mentioned in that paragraph.

(8) In this Article “entertainment” does not include any form of entertainment given otherwise than by persons actually present and performing.

(9) 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 entertainment or substantial refreshment or both entertainment and substantial refreshment unless it is used, or intended to be used, for the purpose of providing such entertainment or refreshment during the hours mentioned in paragraph (2) and for a substantial period preceding the end of the general permitted hours mentioned in Article 42(1) on every day or on particular days 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.

(10) The premises to which this Article applies are—

- (a) an hotel;
- (b) a restaurant;
- (c) a conference centre;
- (d) a higher education institution;
- (e) any part of premises of a kind mentioned in Article 5(1)(a) which, in the case of a part specified in an order under paragraph (1) where substantial refreshment is to be habitually provided, 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.

#### **Authorisations for additional permitted hours**

**45.**—(1) On the application of a holder of a licence for premises of a kind mentioned in Article 5(1)(a) other than premises to which an order under Article 44 applies, not less than 7 days before the occasion to which the application relates, the sub-divisional commander for the police sub-division in which the premises are situated may, in writing, authorise the holder of the licence to sell intoxicating liquor during the hours—

- (a) on week-days from 11 in the evening to 1 in the morning of the day next following, or
- (b) on Sunday, not being 31st December, from 10 in the evening to 12 in the evening, or
- (c) on Sunday, being 31st December, from 10 in the evening to 1 in the morning of the day next following;

in addition to the hours mentioned in Article 42(1), on any 1 occasion specified in the authorisation, and any additional hours authorised under this Article shall be included in the permitted hours for those premises.

(2) Not more than 20 authorisations shall be granted under this Article to any holder of a licence in any year.

(3) Nothing in this Article shall permit an authorisation under paragraph (1) to authorise the sale of intoxicating liquor—

- (a) on Christmas Day, Easter Day or Good Friday; or
- (b) to a person admitted to the premises less than 30 minutes before the end of the hours mentioned in that paragraph.

### *Exceptions*

#### **Exceptions from prohibition of sale, etc., of intoxicating liquor outside permitted hours**

**46.**—(1) Where intoxicating liquor is sold in licensed premises during the permitted hours, Article 41 shall not prohibit or restrict—

- (a) during the first 30 minutes after the conclusion of the permitted hours except where the premises are—
    - (i) part of premises of a kind mentioned in Article 5(1)(a) with respect to which an order under Article 43 is in force; or
    - (ii) of a kind mentioned in Article 5(1)(b); the consumption or permitting consumption of the liquor in the premises;
  - (b) during the first 30 minutes after the Inclusion 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 5(1)(a) (except where the liquor is taken from a part of the premises with respect to which an order under Article 43 is in force or where the liquor was sold in contravention of Article 50(1)); or
    - (ii) an hotel (except where the liquor was sold in contravention of Article 5(3)(b) or 50(1)).
- (2) Article 41 shall not prohibit or restrict—
- (a) the sale of intoxicating liquor to a resident in premises of a kind mentioned in Article 5(1)(a) which provides accommodation for guests such as is mentioned in paragraph (3) or in an hotel or in a guest house; or
  - (b) the taking of it by a resident from such premises or hotel or, in a case to which Article 51(1)(b) applies, guest house; or
  - (c) the consumption or permitting consumption of it in such premises, hotel or guest house by a resident or his guests; or
  - (d) the dispatch, in a vehicle or receptacle, by the holder of a licence for premises which are either of a kind mentioned in Article 5(1)(a) or (b) or an hotel to which Article 5(5)(b)(ii) applies, of intoxicating liquor sold by him for delivery and consumption off the premises.
- (3) The accommodation for guests to which paragraph (2) applies is accommodation—
- (a) in an establishment allocated by a certificate under Article 13 of the Tourism (Northern Ireland) Order 1992 to the statutory category of tourist establishment mentioned in Article 12(1)(b) of that Order; and
  - (b) which conforms to the requirements, if any, prescribed by regulations made with the concurrence of the Department of Economic Development.

### *Extension licences*

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

**47.**—(1) A court of summary jurisdiction, or a clerk of petty sessions acting under paragraph (2), may, on an application made, in compliance with the procedure set out in Schedule 10, by the holder of a licence for premises which are or include premises for which an order under Article 48 is in force, grant an extension licence authorising that person to sell intoxicating liquor by retail—

- (a) in such part or parts of the premises for which an order under Article 48 is in force, and
- (b) during such hours, being the hours—

- (i) on week-days between half past 11 in the morning and 1 in the morning of the day next following, or
- (ii) on Sunday, not being 31st December, between half past 12 in the afternoon and 12 in the evening, or
- (iii) on Sunday, being 31st December, between half past 12 in the afternoon and 1 in the morning of the day next following,

as may be specified in the extension licence; and those hours shall, so far as not otherwise comprised in them, be included in the permitted hours for the part or parts of the premises specified in the extension licence.

(2) Subject to paragraph (3), 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.

(3) 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.

(4) An extension licence shall not authorise—

- (a) the sale of intoxicating liquor otherwise than as 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; and
- (b) the sale of intoxicating liquor for consumption off the part or parts of the premises specified in the licence.

(5) The functions to which paragraph (4) 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.

(6) Nothing in this Article shall permit an extension licence to authorise the sale of intoxicating liquor—

- (a) on Christmas Day, Easter Day or Good Friday, or
- (b) 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 30 minutes before the function is due to end.

(7) If the holder of an extension licence or any servant or agent of his sells intoxicating liquor in contravention of paragraph (4), 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.

(8) 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.

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

**48.**—(1) In respect of premises to which this Article applies,—

- (a) a county court which grants a licence or declares a licence provisionally granted to be final, on the application of the person applying for the grant or declaration, or
- (b) a court of summary jurisdiction, at any time, upon the application of the holder of the licence for those premises made in compliance with the procedure set out in Schedule 9,

may, by order, specify any part of the premises as being suitable for functions such as are mentioned in Article 47(5).

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

- (a) that the part of the premises specified in the order is suitable for functions; and
- (b) 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.

(3) An order under paragraph (1) may be revoked by a court of summary jurisdiction—

- (a) on the application of the holder of the licence; or
- (b) where, on complaint made under Part VIII of the Magistrates' Courts (Northern Ireland) Order 1981 the court is not satisfied that the requirements of paragraph (2)(a) and
- (b) have continued to be complied with.

(4) The premises to which this Article applies are—

- (a) an hotel;
- (b) a restaurant;
- (c) a conference centre;
- (d) a higher education institution;
- (e) any part of premises of a kind mentioned in Article 5(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.

### *Miscellaneous*

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

**49.** 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.