
STATUTORY INSTRUMENTS

1990 No. 594

The Licensing (Northern Ireland) Order 1990

PART II

THE GENERAL LICENSING SYSTEM

Renewal of licences

Applications for the renewal of licences

15.—(1) An application for the renewal of a licence shall be made to a court of summary jurisdiction except where the licence is renewed by the clerk of petty sessions under this Article.

(2) The procedure for applications for the renewal of licences is set out in Part I of Schedule 4.

(3) Subject to paragraph (4), where notice of an application for the renewal of a licence otherwise than under Article 17 or 25 has been served upon the clerk of petty sessions, he may renew the 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- (a) a notice of objection has been served on the clerk and has not been withdrawn, or
- (b) the licensed premises have been altered since the last previous renewal of the licence (or, where the renewal applied for is the first renewal of the licence, since the licence was granted), or
- (c) the application for renewal is in respect of premises of a kind mentioned in Article 6(1)(a) for which the applicant has also applied to the court for—
 - (i) a direction specifying that on Sundays there shall be no permitted hours on the premises, or
 - (ii) the cancellation of such a direction, or
- (d) the application for renewal is made by virtue of Article 19 or with respect to a licence to which Article 82(4) or Article 85(3) applies, or
- (e) an application is to be made, or an order is in force, under Article 34, Article 49 or Article 50, or
- (f) the application for renewal is in respect of licensed premises for which the applicant has also applied to the court for the variation of a direction specifying the number of gaming machines which may be made available on the licensed premises or, where such a direction has not been given in respect of the licensed premises, for which the sub-divisional commander of the police sub-division in which the licensed premises are situated has applied for such a direction, or
- (g) the clerk is of the opinion, for any other reason, that an application for the renewal of the 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 objectors, if any, of the requirement and of the time and place of the hearing.

(5) Where a licence is renewed, the clerk shall note the renewal on the licence.

Powers of court hearing applications for renewal

16.—(1) Subject to paragraph (2), where an application for the renewal of a licence is made to a court of summary jurisdiction, the court, after hearing the objections, if any, made under Schedule 4,

- (a) if the application was duly made, may renew the licence, or
- (b) may refuse to renew the licence.

(2) Without prejudice to its power to refuse to renew a licence on any ground, a court shall not renew a licence for any premises unless it is satisfied—

- (a) that the applicant is a fit person to hold a licence; and
- (b) subject to Article 19(3),—
 - (i) that the kind of premises specified in the application is that for which the licence was granted and the premises are of the kind so specified; and
 - (ii) either that the premises are suitable to be licensed for the sale of intoxicating liquor by retail or, if they are not suitable, that they will be made suitable in consequence of an order under paragraph (6); and
- (c) that, having regard to the manner in which the business carried on in the premises under the licence has been conducted since the last previous renewal of the licence (or, where the renewal applied for is the first renewal of the licence, since the licence was granted), it is likely that, if the licence is renewed, the business will be conducted in a peaceable and orderly manner; and
- (d) subject to Article 19(3), that—
 - (i) the business carried on in the premises under the licence, and
 - (ii) in the case of premises of a kind mentioned in Article 6(1)(c) to (g) other than an hotel in respect of which the note and record mentioned in Article 6(5)(a) have been made, the business to which the sale of intoxicating liquor under the licence is ancillary, has not been discontinued; and
- (e) where the licence is in respect of premises of a kind mentioned in Article 6(1)(e), that the conditions attached to the licence by the court under Article 8(8) have been observed.

(3) For the purposes of paragraph (2)(d)(i) a business shall be deemed not to have been discontinued if its conduct has been interrupted by reason only of the suspension of the licence.

(4) A court which renews a licence in respect of premises of a kind mentioned in Article 6(1)(a), on the application of the holder of the licence—

- (a) where a direction has not been given under Article 8(7), shall give such a direction; or
- (b) shall cancel a direction given under sub-paragraph (a) or Article 8(7).

(5) A court which renews a licence for any premises which are licensed premises to which regulations under Article 108(1)(b) of the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985(1) apply may—

- (a) where a direction has not been given under Article 8(9) in respect of the licensed premises, on an application by the sub-divisional commander of the police sub-division in which the licensed premises are situated, give such a direction; or

- (b) on an application by the sub-divisional commander mentioned in sub-paragraph (a), vary a direction given under sub-paragraph (a) or Article 8(9); or
 - (c) on an application by the holder of the licence, vary or cancel a direction given under sub-paragraph (a) or Article 8(9).
- (6) Article 9 shall apply on the renewal of a licence as it applies on the grant of a licence with the substitution—
- (a) for any reference to the court granting a licence of a reference to a court renewing a licence; and
 - (b) for the reference in paragraph (2) to the person whose name has been notified to the court as the owner of the premises of a reference to the person whose name is recorded in the register of licences as the owner of the premises.
- (7) Where the court refuses an application for the renewal of a licence or for the variation or cancellation of a direction under paragraph (5), it shall specify in its order the reasons for its refusal.
- (8) Where the court gives or cancels a direction under paragraph (4) or (5) or varies a direction under paragraph (5) the clerk of petty sessions shall note the direction, cancellation or variation, as the case may require, on the licence.

Power to renew licences out of time

- 17.—(1) Where the holder of a licence which falls to expire at the end of a licensing year fails to serve due notice of an application for its renewal before the renewal date in that year a court of summary jurisdiction, upon application for the renewal of the licence being duly made not later than the end of the next following licensing year, may renew the licence—
- (a) if it is satisfied that there was good reason for the failure; or
 - (b) upon the payment of an additional fee of £10, or such greater amount as may be prescribed by magistrates' courts rules, for each month or part of a month between the renewal date and the time when application is duly made under this Article for the renewal of the licence.
- (2) The procedure for applications under this Article for the renewal of licences is set out in Part I of Schedule 4 as modified by Part II of that Schedule.

Renewal of licences in respect of certain premises

- 18.—(1) Subject to paragraph (2), where a licence was granted for premises in which a principal business was carried on and an application for the renewal of the licence is made to a court of summary jurisdiction, the court, if satisfied—
- (a) that the principal business has been discontinued in consequence of damage caused to premises and an application has been, or will be made under the Criminal Injuries to Property (Compensation) Act (Northern Ireland) 1971(2) or the Criminal Damage (Compensation) (Northern Ireland) Order 1977(3) for compensation for that damage, and
 - (b) that there is a likelihood that, within a reasonable period, either—
 - (i) the principal business will be resumed in the licensed premises, or
 - (ii) an application will be made to a county court for a new licence in lieu of the existing licence to enable the business to be carried on in other premises (whether on the same site or not), or
 - (iii) an application will be made to the county court for a new licence and the licence sought to be renewed is proposed to be surrendered as a subsisting licence,

(2) 1977 NI 14
(3) 1948 c. 4 (N.I.)

may grant the renewal notwithstanding that—

- (A) the licensed premises have ceased to exist; or
- (B) the principal business has been discontinued; or
- (C) the premises are no longer registered under section 10 of the Development of Tourist Traffic Act (Northern Ireland) 1948(4) or, as the case may be, no longer provide accommodation approved by the Northern Ireland Tourist Board.

(2) Where an application for the renewal of the licence has been made on 2 previous occasions in respect of any premises the court shall not grant the renewal under paragraph (1) unless the applicant

- (a) satisfies the court that there were reasonable grounds for the failure either to resume the principal business in the licensed premises or to make an application for a new licence; and
- (b) produces evidence to the court that he is taking the necessary steps to resume that business or make that application within the next 12 months.

(3) Where in respect of any year a licence is renewed under this Article, Articles 6(3)(a) and 50 and Article 62 in so far as it relates to Article 6(3)(a) shall not apply to the conduct of the licensed business in the licensed premises during that year.

(4) In this Article—

“principal business” means the business of an hotel or the business of providing accommodation for guests in premises such as are mentioned in Article 2(5)(a) or (b);

“licensed business” means the business of selling intoxicating liquor in premises in which a principal business is carried on.

Renewal of licence pending grant of new licence

19.—(1) Where—

- (a) the premises specified in a licence are premises such as are mentioned in sub-paragraph (a) of paragraph 2 of Schedule 2 and sub-paragraph (b) of that paragraph (where applicable) applies, and
- (b) an order is not in force under Article 31 authorising the temporary continuance in other premises of the business authorised to be carried on under the licence,

the holder may, for the purpose of keeping the licence in force in order that it may be surrendered as a subsisting licence, apply under Article 15 for a renewal of the licence, and the court, if satisfied that it will be surrendered within a reasonable period, may renew the licence.

(2) Where the holder of a licence has died, his personal representative may apply under paragraph (1) for the renewal of the licence, and the court may renew the licence in his name.

(3) For the purposes of an application for renewal under paragraph (1), Article 16 shall have effect as if sub-paragraphs (b) and (d) of paragraph (2) were omitted.

Renewal of suspended licences

20. The renewal of a suspended licence shall not affect the suspension.

Continuance of licence pending determination of appeal

21. Where a court refuses to renew a licence and the holder of the licence appeals, the licence shall, unless suspended, continue in force until the appeal is determined or abandoned.

Duration of renewed licence

22.—(1) Subject to paragraph (2), on the renewal of a licence it shall, unless suspended, remain in force until—

- (a) if it is renewed within the 3 months immediately preceding the expiration of the then current licensing year, the expiration of the next following licensing year; or
- (b) in any other case, the expiration of the then current licensing year.

(2) Paragraph (1) shall not prejudice the operation of Articles 14(2)(c), 21, 27(b), 28(8) and 30, under which a licence may, or may be deemed to, continue in force after the time when it would otherwise expire.

(3) Where, on renewing a licence, a court of summary jurisdiction gives a direction under Article 16(5)(a) or varies or cancels any direction given under Article 8(9) or 16(5)(a) and the holder of the licence appeals against the direction, variation or cancellation, as the case may require, the direction, variation or cancellation shall not take effect until the appeal is determined or abandoned.