

LICENSING (INDOOR ARENAS) (NORTHERN IRELAND) ORDER 2004

S.I. 2004 No. 1994 (N.I. 17)

EXPLANATORY MEMORANDUM

1. The Licensing (Indoor Arenas) (Northern Ireland) Order 2004 was made on 27 July 2004.
2. This Explanatory Memorandum has been prepared by the Department for Social Development (“the Department”) in order to assist the reader in understanding the Order. It does not form part of the Order.

BACKGROUND AND POLICY OBJECTIVES

3. The Licensing (Northern Ireland) Order 1996 (“the principal Order”) requires a person wishing to sell alcohol in the course of business to hold a licence. A licence may be granted in respect of premises such as public houses, off-licences, hotels, guest houses, restaurants, conference centres and places of public entertainment.
4. The building of the Odyssey Arena in Belfast triggered consideration of the need to amend the principal Order. Indoor arenas are an entirely new type of facility for Northern Ireland and were not envisaged when the current legislation was being formulated. An application for a liquor licence cannot, therefore, be made for such premises and the Order would enable such an application to be made.

CONSULTATION

5. There has been consultation with all bodies with a known interest in liquor licensing and all organisations representing equality interests under section 75 of the Northern Ireland Act 1998. Following responses to a Consultation Paper published in July 2002, the Department concluded that the principal Order should be amended to include indoor arenas among the premises for which liquor licences may be granted.
6. A Proposal for a draft Order in Council and an Explanatory Memorandum were published in July 2003. Following responses, a proposal to make an additional amendment to the principal Order was published in February 2004. The additional amendment would relax in relation to kiosks and other salespoints in indoor arenas, the restrictions on young persons under 18 years of age in parts of licensed premises where intoxicating liquor is sold or consumed. Overall responses to the Proposal for a draft Order and the proposed additional amendment were favourable.

MAIN ELEMENTS OF THE ORDER

7. The Order contains 8 Articles which insert a definition of the term “indoor arena” into the principal Order and extend the provisions of that Order to such arenas.

COMMENTARY ON ARTICLES

8. Details of the purpose of each Article contained in the Order are as follows:

Article 1: Title and commencement

This Article sets out the title of the Order and provides that Articles 1 and 2 are to come into operation 7 days after the Order is made. The Department is empowered to make a commencement order naming the day on which the remaining provisions will come into operation.

Article 2: Interpretation

This Article applies the Interpretation Act (Northern Ireland) 1954 to the Order and defines certain expressions used in it.

Article 3: Meaning of “indoor arena”

Paragraph (1) introduces amendments, contained in paragraphs (2) and (3), to the interpretation provisions in Article 2 of the principal Order. These amendments reflect the fact that the Order is to apply to indoor arenas.

Paragraph (4) inserts a new Article 2A into the principal Order. The new Article sets out the definition of “indoor arena”.

Article 4: Licences for indoor arenas

Paragraph (1) introduces amendments, contained in paragraphs (2) and (3), to Article 5 of the principal Order. That Article specifies the premises for which licences may be granted.

Paragraph (2) adds an indoor arena to the list of premises contained in Article 5(1), for which licences may be granted.

Paragraph (3) adds an indoor arena to the premises referred to in Article 5(3) and (6). The effect of the amendment is that, a licence will not authorise the sale of alcohol in an indoor arena unless there is being carried on in the premises a business of the type normally carried on and the sale of alcohol is ancillary to that business. In addition, the licence does not authorise the sale of alcohol for consumption off the premises. Contravention of these restrictions is an offence.

Paragraph (4) amends Article 22 of the principal Order which deals with the transfer of licences. By extending paragraph (6)(c)(ii) of that Article, a court will be required to refuse an application for the transfer of an indoor arena licence unless it is satisfied that the business to which the sale of alcohol is ancillary has not been discontinued.

Article 5: Attachment of conditions to licences

Paragraph (1) extends Article 7(12) of the principal Order to include an indoor arena. That provision presently provides that a court which grants a licence in respect of a place of public entertainment may attach to the licence such conditions as it thinks fit. A court will have a similar power with respect to licences for indoor arenas. For example, it will have the discretion to react to concerns about the sale of alcohol at certain events particularly those aimed at young people.

Paragraph (2), in sub-paragraphs (a), (b) and (c), introduces the following amendments to Article 15 of the principal Order in relation to the renewal of licences by a court:

- sub-paragraph (a) adds an indoor arena to the premises listed in Article 15(2)(e)(ii). This means that, providing an indoor arena has not closed because of damage to the premises, a court will not renew the licence unless the business being carried on under the licence, and to which the sale of alcohol is ancillary, has not been discontinued.
- sub-paragraph (b) adds an indoor arena to those premises in Article 15(2)(f) which, before their licence can be renewed, a court must be satisfied that any conditions attached to the licence are being observed.
- sub-paragraph (c) adds a new paragraph (6A) to Article 15 thereby permitting a court which renews an indoor arena licence to attach to the licence such conditions as it thinks fit.
- Paragraph (3) inserts a new Article 77A into the principal Order. This new provision permits a court of summary jurisdiction, at any time, to attach to a licence for an indoor arena such conditions as it thinks fit, or to alter or remove any conditions already attached. Applications to the court for the attachment of conditions may only be made by the district commander for the police district in which the indoor arena is situated; but there is no restriction on who may apply for the alteration or removal of conditions.

Article 6: Temporary continuance of business

This Article makes special provision for indoor arenas by adding a new paragraph (2A) to Article 29 of the principal Order. The new paragraph relates to circumstances where the holder of a licence is unable to carry on business at the indoor arena and applies to a court for the authorisation to continue business temporarily in other premises. The new provision permits a court to consider the application even though the temporary premises do not fully meet the definition of “indoor arena” in Article 2A of the Order. For example, the temporary premises may be unable to seat 5000 people.

Article 7: Additional permitted hours and suitability for functions

Paragraph (1) amends Article 44(10) of the principal Order by adding an indoor arena to the categories of premises in respect of which an application may be made to a court for later opening on weekdays or weekends. There are a number of conditions to be met before a court may make an order. For example, there must be provided on the part of the premises for which the additional permitted hours are sought, entertainment or substantial refreshment for a major part of the additional permitted hours.

Paragraph (2) amends Article 48(4) of the principal Order by adding an indoor arena to the categories of premises in respect of which an application may be made to a court for an order specifying the premises (or any part of the premises) as being suitable for functions. Only where premises have been so specified can an extension be granted under Article 47, authorising the sale of alcohol at functions to 1.00am on weekdays or midnight on Sundays. The functions in question must be 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. In addition, a licence holder may organise, for any purpose, a maximum of 6 functions in any year. The sale of alcohol must be ancillary to a function and the sale for consumption off the premises (or the relevant part of the premises) is prohibited.

Article 8: Requirements with respect to sale of intoxicating liquor

Paragraph (1) of this Article inserts a new Article 52A into the principal Order, imposing conditions on the sale of alcohol in indoor arenas.

Paragraph (1) of the new Article states that, where an indoor arena is licensed for the sale of alcohol, it must not be sold or made available for sale there unless it is

sold to, or made available for purchase by, people employed or attending events and activities in the premises. Furthermore, other beverages and food must also be available for purchase.

Paragraph (2) of the new Article deals with contravention of the requirements of paragraph (1). The holder of a licence in respect of an indoor arena who sells alcohol or makes it available for sale in contravention of the Article is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale (currently £1,000).

Paragraph (2) of this Article amends Article 58(13) of the principal Order by adding a new sub-paragraph (f) which will enable young persons under 18 years of age attending events and activities at an indoor arena to make purchases (other than intoxicating liquor) at a kiosk or other salespoint.

COMMENCEMENT

9. The introductory provisions are to come into operation on the expiration of 7 days from the day on which the Order is made. The substantive provisions will be brought into operation on a day to be appointed by a commencement order.