



## 2014 CHAPTER 9

### *Supplementary*

#### **Service of notices and documents**

**25.—**(1) Without prejudice to section 24(2) of the Interpretation Act (Northern Ireland) 1954, any notice or other document required or authorised to be served on or sent or given to any person under this Act may be served, sent or given, in a case where an address for service using electronic communications has been given by that person, by sending it using electronic communications, in accordance with the condition in subsection (2), to that person at that address.

(2) That condition is that the notice or other document is—

- (a) capable of being accessed by the recipient;
- (b) legible in all material respects; and
- (c) in a form sufficiently permanent to be used for subsequent reference;

and for this purpose “legible in all material respects” means that the information contained in the notice or document is available to the recipient to no lesser extent than it would be if served or given by means of a notice or document in printed form.

(3) Where a person uses electronic communications to transmit any notice or other document for any purpose of this Act, that person shall be taken to have agreed, except where a contrary intention appears, to the use of such communications and that his or her address for that purpose is the address incorporated into, or otherwise logically associated with, the notice or document.

(4) In this section “electronic communication” has the same meaning as in the Electronic Communications Act (Northern Ireland) 2001.

**Power to make further provision**

**26.—**(1) The Department may by regulations make such supplementary, incidental, consequential or transitional provision as it considers necessary or expedient for the purposes of, or in consequence of, or for giving full effect to, any provision made by or under this Act.

(2) The provision which may be made under subsection (1) includes provision which amends or modifies any statutory provision (including this Act) or any document.

**Regulations**

**27.—**(1) Subject to subsection (2), regulations made under this Act are subject to negative resolution.

(2) Regulations which include provision under section 26(1) that amends any statutory provision may not be made unless a draft of the regulations has been laid before and approved by a resolution of the Assembly.

**Consequential amendments**

**28.** The statutory provisions set out in the Schedule have effect subject to the consequential amendments specified in that Schedule.

**Byelaws**

**29.—**(1) Where, by creating an offence, a byelaw prohibits the consumption of intoxicating liquor in a particular place, the byelaw does not apply to any relevant pavement café area within that place.

(2) In this section “a relevant pavement café area” means a public area which—

- (a) is an area shown under section 5 on the plan in a pavement café licence which is in force;
- (b) for the time being has temporary furniture on it that under the terms of that licence is permitted to be on that area at that time;
- (c) is associated with premises licensed under the Licensing Order which are—
  - (i) premises of a kind mentioned in Article 5(1)(a) of the Licensing Order;
  - (ii) a hotel;
  - (iii) a guest house in which the business of a restaurant is carried on;
  - (iv) a restaurant; or
  - (v) a refreshment room in public transport premises; and

(d) is not subject to an alcohol condition.

(3) For the purposes of subsection (2)(c)—

(a) the area is “associated with” particular premises if those premises are the premises in respect of which the pavement café licence relating to the area was granted;

(b) “hotel”, “guest house”, “restaurant”, and “public transport premises” have the same meanings as in the Licensing Order.

(4) For the purposes of subsection (2)(d), the area is “subject to an alcohol condition” if the pavement café licence relating to the area includes a condition requiring the licence holder not to permit persons to consume intoxicating liquor when using furniture on the area.

(5) In subsection (1) the reference to intoxicating liquor includes any liquor of a similar nature which falls within the byelaw.

## **Definitions**

**30.—(1)** In this Act—

“the area covered by the licence”, in relation to a pavement café licence, has the meaning given by section 5(2) or, where the licence relates to more than one public area, the meaning given by section 5(4)(b);

“authorised officer” means a person authorised by a council for the purposes of this Act;

“business” includes any business whether or not carried on for profit;

“council” means a district council;

“the Department” means the Department for Social Development;

“furniture” has the meaning given by section 1(3);

“intoxicating liquor” has the same meaning as in the Licensing Order;

“licensed under the Licensing Order”, in relation to premises, has the meaning given by subsection (2);

“the Licensing Order” means the Licensing (Northern Ireland) Order 1996;

“market area” means a place where a person has a right (exercisable at particular times) to hold a market or fair; and in this definition “right” means a right acquired by virtue of a grant (including a presumed grant) or acquired or established by virtue of a statutory provision;

“pavement café licence” has the meaning given by section 1(1);

“the period allowed for representations”, in relation to an application, has the meaning given by section 10(5);

“place”, when used as a verb, is to be read in accordance with section 1(7);

“premises” includes any place other than a public area, and any stall, moveable structure, vehicle or vessel;

“prescribed” means prescribed by regulations;

“public area” has the meaning given by section 1(2);

“regulations” means regulations made by the Department;

“sale of intoxicating liquor by retail” is to be read in accordance with Article 2(6) of the Licensing Order;

“statutory provision” has the meaning given by section 1(f) of the Interpretation Act (Northern Ireland) 1954;

“supplied”, in relation to food and drink, is to be read in accordance with section 1(6);

“temporary”, in relation to furniture, is to be read in accordance with section 1(4) and (5);

“variation”—

(a) in relation to conditions specified in a licence under section 6(3), has the meaning given by section 8(8);

(b) in relation to the area covered by a pavement café licence, has the meaning given by section 8(9);

“working day” means a day which is not a Saturday, Sunday or public holiday.

(2) For the purposes of this Act, premises are “licensed under the Licensing Order” if they are premises in which the sale of intoxicating liquor by retail is authorised by a licence under the Licensing Order other than an occasional licence within the meaning of that Order.

(3) References in this Act to a business “involving” the supply of food or drink to members of the public, or of a section of the public, include a business where such supply of food and drink is ancillary to the principal activity of the business.

(4) A stall, moveable structure, vehicle or vessel in or from which food or drink is supplied is to be treated for the purposes of this Act as premises situated at the place where the stall, moveable structure, vehicle or vessel is when being used for the supply of food or drink.

(5) If a stall, moveable structure, vehicle or vessel is used for the supply of food or drink at more than one place, the premises which by virtue of subsection (4) are to be treated as situated at each such place are to be treated as separate premises.

### **Short title**

**31.** This Act may be cited as the Licensing of Pavement Cafés Act (Northern Ireland) 2014.

**Commencement**

**32.—**(1) This Act, except sections 30 and 31 and this section, shall come into operation on such day or days as the Department may by order appoint.

(2) An order under this section may contain such transitional provisions as the Department thinks appropriate.