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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**

**Prohibition on sale of intoxicating liquor without a licence**

3. Except as permitted by this Order, it shall be unlawful for any person to sell intoxicating liquor by retail unless he holds a licence authorising him to do so in the course of a business carried on in premises specified in the licence.

**Prohibition of consumption, etc., of intoxicating liquor at entertainments organised for gain**

4.—(1) Subject to paragraph (2), it shall be unlawful to supply, keep for consumption or consume intoxicating liquor at any entertainment organised for gain in any premises.

(2) Paragraph (1) shall not apply to anything done at—

- (a) any entertainment in licensed premises or in the premises of a club registered under the Registration of Clubs (Northern Ireland) Order 1987(1); or
- (b) any entertainment in connection with which an occasional licence has been granted.

(3) Subject to paragraph (4), for the purposes of this Article, an entertainment shall be deemed to have been organised for gain if any pecuniary advantage accrued or was intended to accrue to any person concerned in its organisation as a result of the entertainment; and in determining whether any such advantage so accrued or was intended to accrue no account shall be taken of any expenditure incurred in connection with the entertainment.

(4) An entertainment shall not be deemed to have been organised for gain if the whole proceeds of the entertainment, after deducting the expenses of the entertainment, are devoted to purposes other than private gain.

(5) Nothing in this Article shall affect the delivery or supply of intoxicating liquor to, or the consumption of intoxicating liquor by, a person in premises in which he is residing; and in determining for the purpose of this Article whether an entertainment is being held in any premises, the presence of persons residing in the premises shall be disregarded.

*Grant of licences*

**Persons to whom licences may be granted**

5.—(1) The person to whom a licence is granted (other than a housing authority to whom a licence is granted provisionally) shall be the owner of the business proposed to be carried on under the licence.

(2) A licence may be granted to an individual, to a body corporate or to two or more persons carrying on business in partnership.

(3) In considering the fitness of a person to hold a licence for any premises, a court shall have regard to—

- (a) his character;
- (b) his suitability to manage the business which is or is proposed to be carried on under the licence, or the suitability of any person who is or is proposed to be employed by him in that behalf;
- (c) the extent to which, by virtue of any estate vested in him, he is entitled to possession and control of the premises.

(4) In considering the fitness of a body corporate to hold a licence, a court shall also have regard to the character of the directors of the body and any other persons who have executive control of it, as if the licence were, or were proposed to be, held by them jointly.

### **Premises for which licences may be granted**

6.—(1) Without prejudice to Article 85, the premises in which the sale of intoxicating liquor is authorised by a licence shall be premises of one of the following kinds—

- (a) premises in which the only or principal business carried on is the business of selling intoxicating liquor by retail for consumption either in or off the premises;
- (b) premises in which the only or principal business carried on is the business of selling intoxicating liquor by retail for consumption off the premises;
- (c) an hotel;
- (d) a restaurant;
- (e) a place of public entertainment;
- (f) a refreshment room in public transport premises;
- (g) a seamen's canteen.

(2) Premises shall not cease to be premises of a kind mentioned in paragraph (1)(a) by reason only of the fact that at particular times or on particular occasions the principal business carried on is the business of selling meals or refreshments or providing accommodation for guests such as is mentioned in Article 33(3).

(3) Subject to paragraph (5), a licence shall not authorise the sale of intoxicating liquor in premises of any kind mentioned in paragraph (1)(c) to (g),—

- (a) unless, subject to Article 18(3)—
  - (i) there is being carried on in those premises a business of the type normally carried on in premises of that kind; and
  - (ii) the sale of intoxicating liquor is ancillary to that business;
- (b) for consumption off the premises.

(4) A licence for premises other than an hotel shall be authority for the sale of intoxicating liquor only in the part or parts of the premises delineated in plans kept under Article 39(2) by the clerk of petty sessions for the petty sessions district in which the premises are situated as the part or parts of the premises in which such liquor is permitted to be sold.

(5) In relation to premises which are an hotel—

- (a) paragraph (3)(a) shall not apply, where a note showing that the licence was granted—
  - (i) before 31st July 1902; or

- (ii) between 30th July 1902 and 3rd May 1971 otherwise than under section 2(2) of the Licensing (Ireland) Act 1902(2) or section 9(a)(ii) of the Intoxicating Liquor Act (Northern Ireland) 1923(3); or
  - (iii) under Article 4(1) of the Licensing (Northern Ireland) Order 1978(4) or Article 12(1) of this Order in lieu of an existing licence to which head (i) or (ii) applied;
- has been made on the licence and recorded in the register of licences in respect of the premises;
- (b) paragraph (3)(b) shall not prohibit or restrict the sale of intoxicating liquor for consumption off the premises, where—
    - (i) the purchaser is a resident or diner in the premises, or
    - (ii) a note such as is mentioned in sub-paragraph (a) has been made on the licence and recorded in the register of licences in respect of the premises.

### **Applications for the grant of licences**

- 7.—(1) An application for the grant of a licence shall be made to a county court.
- (2) The procedure for applications for the grant of licences is set out in Part I of Schedule 1.

### **Powers of court on applications for licences**

- 8.—(1) Subject to paragraph (2), where an application is made for the grant of a licence, the court, after hearing the objections, if any, made under Part I of Schedule 1,—
  - (a) if the application was duly made, may grant the licence; or
  - (b) may refuse to grant the licence.
- (2) Without prejudice to its power to refuse to grant a licence on any ground, a court shall not grant a licence for any premises unless it is satisfied—
  - (a) that the applicant is a fit person to hold a licence; and
  - (b) that the premises are of the kind specified in the application and either that they 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 Article 9; and
  - (c) where the premises are of a kind mentioned in Article 6(1)(a) or (b)—
    - (i) subject to paragraph (3), that the number of licensed premises of the kind specified in the application which are in the vicinity of the premises is, and having regard to any licences provisionally granted under Article 10 or any sites approved under Article 11 will be, inadequate; and
    - (ii) subject to paragraph (4), that a subsisting licence for premises of either such kind, or a subsisting licence in respect of which the note and record mentioned in Article 6(5)(a) have been made, has been surrendered to the clerk of the court or will be so surrendered before the licence is issued; and
    - (iii) where, under any statutory provision, the applicant is or will be entitled to compensation for the loss of goodwill which attached or attaches to the business carried on under the licence proposed to be surrendered, that he has abandoned his claim to so much of that compensation as is equivalent to the value of any of that

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(2) 1902 c. 18  
(3) 1923 c. 12 (N.I.)  
(4) 1978 NI 14

goodwill which is likely to be attracted to the business proposed to be carried on under the new licence; and

- (d) either—
- (i) that there is in force planning permission to use the premises as premises of the kind specified in the application for the period during which the licence would be in force; or
  - (ii) that the premises may be used as such premises for that period without such permission.
- (3) Without prejudice to paragraph 6 of Schedule 3, paragraph (2)(c)(i) shall not apply where—
- (a) the subsisting licence which is proposed to be surrendered is for premises to which paragraph 2(a) of Schedule 2 applies and which were or are on the site or in the vicinity of the premises for which the licence is sought; or
  - (b) the site of the premises for which the licence is sought has been approved under Article 11 as a site for licensed premises of the kind specified in the application.
- (4) Paragraph (2)(c)(ii) shall not apply—
- (a) where—
    - (i) the premises for which the licence is sought are situated in an area designated by an order under section 1 or 47 of the New Towns Act (Northern Ireland) 1965<sup>(5)</sup> as the site of a new town or a town to be expanded or developed under that Act; and
    - (ii) if a new town commission has been established for the purposes of the town, an order has not been made under section 33 of that Act for the winding-up of the commission; or
  - (b) where, at any time during the period of 5 years immediately preceding the date of the application for the licence, a previous licence (including a licence under the Licensing Act (Northern Ireland) 1971<sup>(6)</sup> or under statutory provisions repealed by that Act) was in force for the premises for which the licence is sought, as being premises of the kind specified in the application, and has not been surrendered under this Order or that Act or any of those statutory provisions or annulled under any of those provisions.
- (5) For the purposes of paragraph (4)(a)(ii) an order under section 131(3)(b) of the Local Government Act (Northern Ireland) 1972<sup>(7)</sup> shall have effect as if it were an order under section 33 of the New Towns Act (Northern Ireland) 1965.
- (6) Schedule 2 defines the circumstances in which a licence is or is not to be treated as a subsisting licence.
- (7) Where a court grants a licence under paragraph (1) in respect of premises of a kind mentioned in Article 6(1)(a) and the applicant for that licence has applied to the court for a direction specifying that on Sundays there shall be no permitted hours on the premises, the court shall give such a direction.
- (8) A court which grants a licence under paragraph (1) in respect of premises of a kind mentioned in Article 6(1)(e) may attach to the licence such conditions as it thinks fit.
- (9) Where by virtue of the grant of a licence in respect of any premises, those premises are licensed premises to which regulations under Article 108(1)(b) of the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985<sup>(8)</sup> apply the court may, on an application by the sub-divisional commander of the police sub-division in which those premises are situated, give a

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(5) 1965 c. 13 (N.I.)

(6) 1971 c. 13 (N.I.)

(7) 1972 c. 9 (N.I.)

(8) 1985 NI 11

direction specifying the number of gaming machines which may be made available for gaming on the licensed premises in accordance with the provisions of Article 108 of that Order.

(10) Where the court refuses to grant a licence, it shall specify in its order the reasons for its refusal.

(11) Where the court gives a direction under paragraph (7) or (9) the chief clerk shall note the direction on the licence.

### **Grant of licence conditional on alterations being made in premises**

**9.—**(1) A court which grants a licence may order that, within a period fixed by the order, the holder of the licence—

- (a) shall make such alterations in the licensed premises as may be specified in the order, being alterations which the court thinks necessary—
  - (i) to secure the proper conduct of the business carried on under the licence;
  - (ii) to secure compliance with the provisions of Article 33 as to the structural arrangement of premises; or
  - (iii) to secure that no part of any room which is used for the sale or consumption of intoxicating liquor is concealed or screened from observation in such a manner as to obstruct proper supervision; and
- (b) shall deposit with the clerk of the court a plan of the premises showing the alterations so specified.

(2) Notice of any order made under paragraph (1) shall be served by the clerk of the court on the person whose name has been notified to the court as the owner of the premises.

(3) The period fixed by an order under paragraph (1) may be extended by order of a court of summary jurisdiction on the application of the holder of the licence.

(4) If the holder of the licence makes default in complying with an order under paragraph (1) 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.

### **Provisional grant of licences**

**10.—**(1) Where premises are about to be constructed, altered or extended or are in the course of construction, alteration or extension, an application may be made to a county court for the provisional grant of a licence for those premises.

- (2) An application for the provisional grant of a licence may be made by—
  - (a) the person who proposes to be the owner of the business to be carried on under the licence after it has been declared final under paragraph (7); or
  - (b) a housing authority.

(3) The procedure for applications for the provisional grant of licences is set out in Part I of Schedule 1 as modified by Part II of that Schedule.

- (4) For the purposes of the provisional grant of licences Article 8 shall have effect as if—
  - (a) any reference to the grant of a licence were a reference to the provisional grant of a licence;
  - (b) any reference to the premises for which a licence is sought included a reference to proposed premises;
  - (c) the reference to the surrender of a subsisting licence before the licence is issued were a reference to its surrender then or before the licence is declared final;

(d) where the application is made by a housing authority, paragraph (2)(a) of that Article were omitted.

(5) A licence which is provisionally granted shall not authorise the sale of intoxicating liquor until the grant of the licence is declared final.

(6) At any time before a licence which has been provisionally granted is declared final, a county court may consent to any modification of the plans deposited under Schedule 1 if, in its opinion, the premises, when completed in accordance with the modified plans, will be suitable to be licensed for the sale of intoxicating liquor by retail and, if it does so, shall require a copy of the modified plan to be deposited with the clerk of the court.

(7) Where a licence has been granted provisionally for any premises, a county court—

(a) where the licence was granted to a person such as is mentioned in paragraph (2)(a), on the application of the holder of the licence, or

(b) where the licence was granted to a housing authority, on the application of a person nominated by the authority who proposes to be the owner of the business to be carried on under the licence in the premises,

shall, subject to paragraph (9), declare the grant of the licence final, if it is satisfied—

(i) that the premises have been completed in accordance with the plans deposited under Schedule 1 or in accordance with those plans with modifications consented to under paragraph (6), and

(ii) that the applicant is a fit person to hold a licence.

(8) The procedure for applications by persons such as are mentioned in paragraph (7) to have the provisional grant of licences declared final is set out in Part III of Schedule 1.

(9) A county court shall not entertain an application made under paragraph (7) after the expiration of 2 years from the date on which the licence was granted provisionally, unless the applicant satisfies the court that there were reasonable grounds for the failure to complete the construction, alteration or extension of the premises within that period.

(10) Where the provisional grant of a licence is declared final the chief clerk shall note the declaration on the licence.

### **Preliminary approval of sites and disposal in certain cases**

**11.**—(1) A housing authority proposing to develop or re-develop any area of land may apply to the county court with respect to any site in that area for a declaration that the court approves that site as a site for licensed premises of a kind specified in the declaration.

(2) The provisions of Schedule 3 shall have effect in connection with applications under paragraph (1), the approval of sites, the grant of licences for premises on approved sites and, where the sites are in a re-development area, the disposal of the sites or of premises erected on the sites; and the provisions as to expenses in Part III of that Schedule shall also have effect.

### **Grant of new licence in lieu of existing licence**

**12.**—(1) Where the holder of a licence which has been renewed under Article 18 (or which could have been so renewed if the renewal date had fallen between the date of the discontinuance of the principal business and the date when his application for a new licence comes before the county court) applies to a county court for the grant or provisional grant of a new licence in lieu of the existing licence, and the court is satisfied that the premises for which the new licence is sought are, or will be,—

(a) where the existing licence was granted—

- (i) before 31st July 1902, or
- (ii) between 30th July 1902 and 3rd May 1971 otherwise than under section 2(2) of the Licensing (Ireland) Act 1902<sup>(9)</sup> or section 9(a)(ii) of the Intoxicating Liquor Act (Northern Ireland) 1923<sup>(10)</sup>,

registered in the register of hotels maintained by the Northern Ireland Tourist Board (“the Board”) under section 10 of the Development of Tourist Traffic Act (Northern Ireland) 1948<sup>(11)</sup>, or

- (b) where the existing licence is for premises to which Article 2(5)(a) applied, an hotel as defined by section 1(3) of the Intoxicating Liquor Act (Northern Ireland) 1923<sup>(12)</sup> providing accommodation approved by the Board, or
- (c) where the existing licence is for premises to which Article 2(5)(b) applied, registered in the register of guest houses maintained by the Board under the said section 10 and without a public bar for the sale of intoxicating liquor,

the court, if it grants the licence applied for, may order that a statement be noted on the licence and recorded in the register of licences to the effect that the licence is granted in lieu of an existing licence of that description.

(2) 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).

#### **Effect on new licence of suspension of surrendered, or previous, licence**

**13.**—(1) Where a suspended licence is surrendered as mentioned in Article 8(2)(c)(ii) or 10(4)(c) the court which grants the new licence or declares the provisional grant of the new licence final may direct that the suspension shall be disregarded, except where the holder of the new licence was the holder of the surrendered licence.

(2) Where—

- (a) the surrendered licence is suspended and the suspension is not disregarded, or
- (b) a new licence is granted by virtue of Article 8(4)(b) by reason of a previous licence having been in force for the premises and the previous licence would be suspended if it were still in force,

the new licence shall be expressed not to come into force, or, as the case requires, shall be declared not to become final, until the expiration of the period of suspension.

(3) For the purpose of paragraph (1) a person shall be deemed to be the holder of a licence if he is one of several joint holders or if he is a director of a body corporate which is the holder.

#### **Duration of new licences**

**14.**—(1) Subject to the succeeding provisions of this Article, a licence shall, unless suspended, remain in force from the date on which it is granted (or, where under Article 13(2) it is expressed to come into force at any later date, from that date) until—

- (a) the expiration of the licensing year in which it is granted, or
- (b) if it is granted within the 3 months immediately preceding the expiration of that year, the expiration of the next-following licensing year.

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(9) 1902 c. 18  
(10) 1923 c. 12 (N.I.)  
(11) 1948 c. 4 (N.I.)  
(12) 1985 NI 11

- (2) Where, at the hearing of an application for the grant of a licence, any person appears before the court and opposes the grant, but the court grants the licence,—
- (a) until the expiry of the time for bringing an appeal against the grant and, if an appeal is brought, until the grant is confirmed or the appeal is abandoned—
    - (i) the licence granted shall not come into force, and
    - (ii) the licence, if any, which has been surrendered shall not cease to be in force;
  - (b) if on appeal the grant is confirmed or if the appeal is abandoned, for the purpose of determining the period for which the licence is to be in force the date when the appeal is disposed of shall be substituted for the date on which the licence was granted or for any other date earlier than the first-mentioned date on which the licence is expressed under Article 13(2) to come into force, and the chief clerk shall (if necessary) amend the licence accordingly;
  - (c) if on appeal the grant is not confirmed, the licence, if any, which has been surrendered shall, unless suspended, continue in force until the expiration of a period of 8 weeks after the appeal is determined, if it would have earlier ceased to be in force but for the provisions of this sub-paragraph.
- (3) Where a licence granted provisionally is at any time declared final, paragraphs (1) and (2) shall apply as if the licence were granted at that time.
- (4) Paragraph (1) shall not prejudice the operation of paragraph (2)(c) and Articles 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.
- (5) Where, on granting a licence, a county court gives a direction under Article 8(9) and the holder of the licence appeals against that direction, the direction shall not take effect until the appeal is determined or abandoned.

### *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(13) 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<sup>(14)</sup> or the Criminal Damage (Compensation) (Northern Ireland) Order 1977<sup>(15)</sup> 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,
- 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<sup>(16)</sup> 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.

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<sup>(14)</sup> 1977 NI 14  
<sup>(15)</sup> 1948 c. 4 (N.I.)  
<sup>(16)</sup> 1989 NI 19

(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.

## *Transfer of licences*

### **Applications for the transfer of licences**

**23.—**(1) An application for the transfer of a licence shall be made to a court of summary jurisdiction.

(2) The application may be made by the person who proposes to, or has, become the owner of the business of selling intoxicating liquor by retail in the licensed premises.

(3) This Article shall apply in relation to the transfer of a licence provisionally granted as if the reference in paragraph (2) to the business of selling intoxicating liquor by retail in the licensed premises were a reference to that business as proposed to be carried on in those premises after the licence has been declared final.

(4) The procedure for applications for the transfer of, respectively, licences and licences provisionally granted is set out in Parts I and II of Schedule 5.

### **Powers of court on applications for transfer**

**24.—**(1) Subject to paragraph (2), where an application is made for the transfer of a licence the court, after hearing the objections, if any, made under Schedule 5,—

(a) if the application was duly made, may transfer the licence; or

(b) may refuse to transfer the licence.

(2) Without prejudice to its power to refuse to transfer a licence on any ground, a court shall not transfer 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 paragraph (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.

(3) Paragraph (2)(b) shall not apply to the transfer of a licence which is provisionally granted.

(4) For the purposes of paragraph (2)(b)(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.

(5) Where the licence is transferred, the clerk of petty sessions shall note the transfer on the licence.

(6) Where the court refuses to transfer a licence, it shall specify in its order the reasons for its refusal.

### **Concurrent transfer and renewal of licences**

**25.**—(1) Where a person applies for a transfer of a licence the holder of which has not applied for a renewal thereof, the court on the application of that person may renew the licence before transferring it to him.

(2) A court shall not renew a licence on an application under this Article unless the application is made—

- (a) within the 3 months immediately preceding the date on which the licence is due to expire; or
- (b) not later than the end of the licensing year next following the date on which the licence expired; or
- (c) during the currency of a protection order.

(3) 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.

### **Transfer of suspended licences**

**26.**—(1) Subject to paragraph (2), the transfer of a suspended licence shall not affect the suspension.

(2) The court which transfers a suspended licence may terminate the suspension or may substitute for the remainder of the period of suspension any lesser period.

(3) For the purposes of this Article the suspension of a protection order made in connection with a licence shall be deemed to be a suspension of the licence.

### **Appeal from transfer**

**27.** Where, at the hearing of an application for the transfer of a licence, any person appears before the court and opposes the transfer, but the court grants the transfer,—

- (a) the transfer shall not take effect until the expiry of the time for bringing an appeal against the transfer and, if an appeal is brought, until the transfer is confirmed or the appeal is abandoned;

- (b) if on appeal the transfer is not confirmed, the licence shall, unless suspended, continue in force until the expiration of a period of 8 weeks after the appeal is determined, if it would have earlier ceased to be in force but for the provisions of this sub-paragraph.

*Temporary continuance of business in certain circumstances*

**Protection orders**

**28.**—(1) A person who proposes to apply for the transfer of a licence or for the concurrent transfer and renewal of a licence may apply to a court of summary jurisdiction for a protection order authorising him to carry on business under the licence until an application for the transfer, or transfer and renewal, of the licence can be brought before a court.

(2) Where the holder of a licence dies and he has no personal representative or his personal representative is unwilling or unable to act, a person who is entitled in consequence of the holder's death to a beneficial interest in the business may apply to a court of summary jurisdiction for a protection order.

(3) Where the holder of a licence has become incapable through illness or other infirmity of carrying on the business authorised by the licence, a person who proposes to carry on the business on his behalf may apply to a court of summary jurisdiction for a protection order.

(4) The procedure for applications for protection orders is set out in Schedule 6.

(5) Where an application is made for a protection order the court, if it is satisfied—

- (a) that the application was duly made, and
- (b) that the applicant is, or that there are reasonable grounds for believing that he may be, a person or one of several persons to whom it could transfer the licence or a person such as is mentioned in paragraph (2) or (3),

may make the order.

(6) The authority conferred by a protection order in respect of any premises shall be the same as that conferred by the licence in force (or last in force) for those premises, and, while the order is in force, the provisions of this Order (other than those relating to the renewal or transfer of licences and the foregoing provisions of this Article) shall apply as if the person to whom the order is granted were the holder of that licence.

(7) Without prejudice to the generality of paragraph (6), a protection order may be suspended as if it were a licence and shall be deemed to be suspended during any period when the licence is suspended.

(8) A licence in connection with which a protection order is in force shall be deemed to continue in force for such period as the protection order remains in force.

**Supplementary provisions relating to protection orders**

**29.**—(1) A protection order shall, unless suspended, remain in force—

- (a) for a period of 6 months or such shorter period as may be specified in the order; and
- (b) where an application for the transfer of the licence is made but not finally disposed of within that period, until the time when the application (including any appeal) is finally disposed of or, where the transfer is not granted, until the expiration of a period of 8 weeks after that time;

but, notwithstanding the foregoing provisions of this paragraph, it shall cease to have effect—

- (i) on the transfer of the licence; or
- (ii) on the making of a further protection order under paragraph (3); or

(iii) on its revocation by a court of summary jurisdiction on application by either the holder of the licence or the holder of the protection order; or

(iv) on the surrender of the licence.

(2) Where a protection order has been made on an application under Article 28(3), a court of summary jurisdiction may, on application by the person in whose favour the order was made, make such further protection order or orders as it thinks fit.

(3) A protection order may be made to supersede a previous protection order, if the court is satisfied that the person in whose favour the previous order was made—

(a) will be unable to apply for a transfer before the expiration of that order; or

(b) consents to that order's being superseded; or

(c) no longer proposes to apply for a transfer of the licence or is not qualified to do so; or

(d) is unable to carry on business under that order.

(4) Where the court makes a protection order the clerk of petty sessions shall note the order on the licence.

#### **Temporary continuance of business on death, bankruptcy, etc.**

**30.**—(1) Where at any time—

(a) the holder of a licence dies or is adjudged bankrupt, or a composition or scheme proposed by him is approved under Chapter II of Part VIII of the Insolvency (Northern Ireland) Order 1989, or a trustee is appointed under a deed of arrangement under Chapter I of that Part VIII for the benefit of his creditors, or a receiver of his property or a committee or guardian is appointed with power to manage the business carried on under the licence; or

(b) in the case of a body corporate which is the holder of a licence, a winding-up is commenced or a receiver is appointed as aforesaid;

the personal representative or, as the case requires, the person who is for the time being trustee in bankruptcy, supervisor of the composition or scheme, trustee under the deed, receiver, committee, guardian or liquidator shall be in the same position as regards carrying on business under the licence as a person in whose favour a protection order had been made at that time.

(2) Where the holder of a licence dies and he has no personal representative or his personal representative is unwilling or unable to act, the licence shall, unless suspended, continue in force for the benefit of any person entitled in consequence of his death to a beneficial interest in the business until—

(a) the expiration of a period of 2 months from the date of his death, or

(b) a protection order is made, or

(c) paragraph (1) becomes applicable by reason of the appointment of a personal representative,

whichever first occurs.

(3) The authority conferred on any person by virtue of paragraph (1) or (2) to carry on a business in licensed premises shall be suspended on the expiration of the period of 2 weeks from the date when he commenced to carry on the business unless during that period he has served notice that he is carrying on the business by virtue of that paragraph (and, if he is carrying it on by virtue of paragraph (1), the capacity in which he is doing so) upon—

(a) the clerk of petty sessions for the petty sessions district, and

(b) the sub-divisional commander of the police sub-division,

in which the premises are situated; but the authority, if so suspended, shall revive upon the service of such a notice.

### **Temporary continuance of business in other premises**

**31.**—(1) Where by reason of any circumstance such as is mentioned in paragraph 2(a)(i) or (iii) to (vi) of Schedule 2, the holder of a licence which is in force for any premises (in this Article referred to as “the original premises”) is unable to carry on business under the licence in the premises, a court of summary jurisdiction may, on an application duly made by him, make an order authorising the continuance of the business in—

- (a) temporary premises erected or to be erected wholly or partly within the curtilage, or on the site, of the original premises; or
- (b) other premises in the vicinity of the original premises or their site,

for such period, not exceeding 6 months, as the court thinks fit.

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

- (a) that the premises in which the business is proposed to be carried on are adequate for the conduct of the business and will continue to be adequate during the period of the order; and
- (b) that the applicant either—
  - (i) proposes to resume business under the licence in the original premises within a reasonable period (if Article 37 does not apply), or
  - (ii) has made an application for a new licence for those or other premises, or proposes to do so within a reasonable period.

(3) An application under this Article shall be made to a court of summary jurisdiction for the petty sessions district in which the premises in which the business is sought to be continued are situated.

(4) The procedure for applications for orders under paragraph (1) is set out in Schedule 6.

(5) Where an order has been made under paragraph (1), a court of summary jurisdiction may, on application by the holder of the licence, make such further order or orders under that paragraph as it thinks fit.

(6) The temporary continuance of a business under this Article shall cease—

- (a) at the end of the period specified in an order or a further order made under paragraph (1), or
- (b) when the holder of the licence resumes the business in the original premises or premises for which a new licence is granted,

whichever first occurs.

(7) Where under this Article a court authorises the temporary continuance of a business in any premises—

- (a) those premises shall be deemed to be the licensed premises;
- (b) for the purposes of the renewal of the licence Article 16(2)(b) shall have effect as if head (ii) were omitted.

### *Occasional licences*

#### **Occasional licences**

**32.**—(1) A court of summary jurisdiction may, on an application duly made by a person who is the holder of a licence for premises of a kind mentioned in Article 6(1)(a), grant an occasional licence authorising that person to sell intoxicating liquor by retail—



- (a) subject to paragraph (2), at such place, other than those premises, and
- (b) during such period not exceeding 6 days at any one time, and
- (c) between such hours,

as may be specified in the occasional licence.

(2) Not more than 13 occasional licences shall be granted by the court on 1 application.

(3) An application under this Article may be made to any court of summary jurisdiction sitting in the county court division in which the place for which the occasional licence is sought is situated, or to any such court sitting in an adjoining county court division for a petty sessions district which includes that place.

(4) The procedure for applications for occasional licences is set out in Schedule 7.

(5) The court shall not grant an occasional licence unless it is satisfied that the sale of intoxicating liquor under the licence will be ancillary to a function to which this paragraph applies which is to be held at the place and during the period and hours specified in the licence.

(6) The functions to which paragraph (5) applies are functions of an occasional nature which are 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.

(7) The days mentioned in paragraph (1)(b) may be in the same week or consecutive weeks, but nothing in this Article shall permit an occasional licence to authorise the sale of intoxicating liquor on any Sunday after 1 in the morning, or on Christmas Day, Easter Day or Good Friday, or during any part of the period from 1 in any morning to half past 11 in that morning.

(8) An occasional licence shall not authorise the sale of intoxicating liquor for consumption off the place specified in the licence.

(9) If the holder of an occasional licence or any servant or agent of his sells intoxicating liquor in contravention of paragraph (8), 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.

(10) Where an occasional licence has been granted in connection with a function at any place, a constable may at any time during the period of the function enter that place for the purpose of ascertaining whether there has been any contravention of any provision of this Order, and if any person, himself or by his servant or agent or any other person acting with his knowledge or consent, fails or unreasonably delays to admit a constable, knowing him to be such, demanding to enter in pursuance of this paragraph, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(11) In any proceedings for an offence under paragraph (10) the burden of proving that any delay in admitting was reasonable shall lie upon the defendant.

(12) An occasional licence granted in connection with a function shall, at any time during the period of the function when intoxicating liquor is sold or made available for purchase at the place specified in the licence, 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.

(13) Where upon complaint made under Part VIII of the Magistrates' Courts (Northern Ireland) Order 1981(17), a court of summary jurisdiction is satisfied that functions held at the place specified in an occasional licence have been conducted so as to cause undue inconvenience to persons residing in the vicinity of that place, the court may—

- (a) revoke any other occasional licences granted in respect of that place; or

- (b) order that the place specified in the licence shall not be a place for which an occasional licence may be granted; or
  - (c) make any licences mentioned in sub-paragraph (a) subject to such terms and conditions as the court thinks fit.
- (14) In this Article “place” includes “premises”.

*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(18); 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.

(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).

*Form, register and proof of licences, etc.*

**Form of licence**

- 38.** A licence shall be in such form as may be prescribed by regulations and shall specify—
- (a) the name and address of the holder of the licence;
  - (b) the address of the premises for which it is granted;
  - (c) the kind of premises for which it is granted;
  - (d) the name and address of the owner of the premises;
  - (e) such other matters as may be prescribed by regulations.

**Register of licences**

**39.—**(1) Each clerk of petty sessions shall keep a register, in such form as may be prescribed by regulations, of licences granted for premises in the petty sessions district for which he acts as clerk and shall record therein in respect of each licence—

- (a) the matters which under Article 38 are required to be specified in the licence;
- (b) particulars of any renewal or transfer, or the surrender, of the licence;
- (c) particulars of any condition imposed under Article 8(8) or any direction given under Article 8(7) or 16(4)(a) and any cancellation of any such direction;
- (d) particulars of any direction given under Article 8(9) or 16(5) and particulars of any variation or cancellation of any such direction;
- (e) particulars of any protection order and of any notice served under Article 30(3);
- (f) particulars of any order made under Article 9(1) or (3), Article 34, Article 36(1), (3) or (4), Article 49 or Article 50 in respect of premises specified in the licence and of any requirement in respect of those premises notice of which is served on him under Article 36(1)(ii);
- (g) particulars of any conviction of the licence holder of any offence such as is mentioned in Article 80(1) and of any order made in consequence of the conviction;
- (h) particulars of any matters such as are mentioned in paragraph (3)(c);
- (i) such other matters as may be prescribed by regulations.

(2) Each clerk of petty sessions shall also keep the plans received by him under paragraph (3), Article 9(1)(b), paragraph 4 of Schedule 6 and paragraph 8 of Schedule 8, and those plans shall be deemed to be matters which are required to be, and have been, recorded in the register under paragraph (1).

(3) Where a court—

- (a) on the application of any person grants or provisionally grants a licence, or declares the provisional grant of a licence to be final, or consents to a modification of plans under Article 10(6), or makes an order under Article 34, Article 36(1)(i), Article 49 or Article 50, or
- (b) makes an order under Article 9, or
- (c) confirms, reverses or varies any decision or determination of any other court relating to a licence or the premises for which a licence is granted, or
- (d) convicts the holder of a licence of any offence such as is mentioned in Article 80(1),

the court, where it is not a court of summary jurisdiction for the petty sessions district in which the premises specified in the licence are situated, shall cause a copy of its order, and any plan which was

attached to, or received in connection with, the application or order, and, where the order relates to the grant or provisional grant of a licence, particulars of any matters entered on the licence under Article 38, to be sent to the clerk of petty sessions for that district; and where a licence is surrendered the court shall cause notice of the surrender to be sent to the clerk of petty sessions who keeps the register in which particulars of that licence are recorded.

(4) A clerk of petty sessions may make such alterations in the register as are necessary to ensure that the matters recorded therein in respect of any licence are accurate.

### **Inspection of register**

**40.** A register of licences may be inspected and copies of all or any part of any entry in the register may be taken at all reasonable hours.

### **Returns to Department**

**41.** The clerk of petty sessions for any petty sessions district, in respect of each such period as may be specified by the Department, shall send to the Department a statement showing—

- (a) the number of licences granted for premises in that district of each of the kinds mentioned in Article 6(1)(a) to (g);
- (b) the number of licences so granted which have been renewed or transferred;
- (c) the number of protection orders so granted;
- (d) the number of occasional licences granted by a court of summary jurisdiction sitting in that district;
- (e) the number of licences for premises in that district which have been suspended;

and containing such other information as the Department may require.

### **Register of licences to be evidence**

**42.—(1)** A register of licences shall be received in evidence of the matters required by or under this Order to be recorded in it, and any document purporting to be certified by a clerk of petty sessions to be a true copy of an entry in the register of licences kept by him shall be received in evidence of any such matters contained in the entry.

(2) On an application for the grant, provisional grant, renewal, or transfer of a licence or for a protection order the court shall have regard to the entries, if any, in the register of licences relating to the person by whom, or the premises in respect of which, the application is made.

### **Proof, etc., of licence**

**43.—(1)** A document purporting to be a licence and to be signed by the clerk of the court by which the licence was granted shall be received in evidence.

(2) A document which has been issued by the clerk of petty sessions for the petty sessions district in which the premises for which a licence was granted are situated and certified by him to contain a true copy of the particulars recorded in the register of licences in respect of that licence shall be treated for the purposes of this Order as the licence.

(3) The clerk of petty sessions may issue a document under paragraph (2) where he is satisfied that the licence has been lost or destroyed.

*Provisions as to certain acquisitions of licensed premises*

**Provisions as to licences where premises are acquired under statutory powers**

**44.** A vesting order made in exercise of powers under any enactment to acquire land compulsorily does not operate, where the land being acquired includes an estate in premises for which a licence is in force, to vest that licence, or a right to apply for the transfer of that licence, in the acquiring authority.

**Temporary occupation of licensed premises for purpose of carrying on business**

**45.—(1)** Where an estate in premises for which a licence is in force is acquired (whether by agreement or otherwise) by an authority who have powers under any enactment to acquire land compulsorily, the authority, without prejudice to their powers under any enactment other than this Article, may, for the purpose of enabling the holder of the licence to carry on in those premises business under the licence or any other business to which that business is ancillary until actual possession of the premises is required by the authority, grant to the holder of the licence a right to occupy the premises upon such terms and subject to such conditions as the authority may determine and such right to occupy may be granted so as to operate retrospectively from the date of the acquisition of the premises.

(2) Until a right to occupy the premises is granted under paragraph (1) by the acquiring authority or, where the acquiring authority do not propose to grant any such right, until such date as that authority may determine, the holder of the licence shall be deemed for the purposes of Article 5(3) to have retained the estate which he held in those premises immediately before the acquisition by the authority.

(3) The expiration of any right to occupy granted under paragraph (1) or of any estate deemed to have been retained under paragraph (2) shall not be treated as an expiration of a tenancy for the purpose of paragraph 2(a)(ii) of Schedule 2.