
STATUTORY INSTRUMENTS

1996 No. 3158

The Licensing (Northern Ireland) Order 1996

PART V

ENFORCEMENT

Production of licence

70. The holder of a licence or protection order shall at the request of a constable produce it within 7 days of the request to, or in accordance with the directions of, the constable for examination, and if it is not so produced he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

Provision for inspection and rights of entry

71.—(1) A constable may, at any reasonable time,—

(a) for the purpose of inspecting the suitability of—

- (i) premises in respect of which a notice of application has been served under paragraph 1(c) of Schedule 1 for the grant of a licence under this Order, or
- (ii) licensed premises in respect of which a notice of application has been served under paragraph 3 of Schedule 4 for the renewal of a licence under this Order and in which since the last previous renewal of the licence (or, where the renewal to be applied for is the first renewal of the licence, since the licence was granted), alterations have been made,

enter and inspect the premises or, as the case may be, the licensed premises;

(b) for the purpose of ascertaining whether a contravention of this Order is being or has been committed or whether any conditions which are applicable under this Order are being or have been complied with, enter and inspect—

- (i) licensed premises; or
- (ii) premises which adjoin or are near licensed premises and which belong to the holder of the licence or are under his control or used by his permission; or
- (iii) premises on which a constable has reason to believe an offence under Article 67 or 68 is being or has been committed.

(2) If any person—

(a) fails or delays without reasonable excuse to admit a constable who demands admission to the premises under paragraph (1), or

(b) on being required by a constable to do so, fails without reasonable excuse to permit the constable to inspect the premises,

he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(3) If, on complaint on oath, a justice of the peace is satisfied that there are reasonable grounds for suspecting that an offence under this Order is being, has been or is about to be committed at any place, he may issue a warrant in writing authorising any constable to enter that place, if necessary by force, and to search that place.

(4) Any constable who enters any place under the authority of a warrant issued under paragraph (3) may—

- (a) seize and remove any intoxicating liquor and its containers, document, money or valuable thing, instrument or other thing found in that place which he has reasonable cause to believe may be required as evidence for the purposes of proceedings in respect of an offence under this Order; and
- (b) search any person found at that place whom he has reasonable cause to believe to be committing or to have committed any such offence.

(5) In paragraphs (3) and (4) “place” includes “premises”.

Suspension of licences

Suspension of licences

72.—(1) An application for the suspension of a licence until—

- (a) the end of the then current licensing period, or
- (b) in the case of a licence which a court has determined shall remain in force for a lesser period, the end of that lesser period,

may be made by the sub-divisional commander of the police sub-division in which the premises to which the application relates are situated to a court of summary jurisdiction on any of the grounds on which objection may be made to an application for renewal of the licence.

(2) On an application for the suspension of a licence a court shall hear representations, if any, from the holder of the licence.

(3) A court shall refuse an application for the suspension of a licence unless it is satisfied that the application is not made on grounds which have been, or ought to have been, raised previously by way of objection either when the licence was granted or on an occasion when it has been renewed.

(4) Where the court refuses an application for the suspension of the licence it shall specify in its order the reasons for its refusal.

(5) A suspended licence shall not be in force during the period of suspension except for the purposes of the provisions of this Order relating to the surrender, renewal or transfer of licences and to protection orders.

Suspension of licences on conviction of certain offences

73.—(1) Where the holder of a licence is convicted of—

- (a) an offence under Article 3, 5(6), 41(1)(a), 50, 51, 55 or 60(1), committed in or in relation to the licensed premises, and that offence is committed within the period of 5 years from the commission by the holder of an offence under any of those Articles committed in or in relation to those premises, or
- (b) an offence under section 13 of the Criminal Law Amendment Act 1885 (permitting premises to be a brothel), where the offence was committed in the licensed premises or in premises which adjoin or are near them,

the court shall, unless satisfied that by reason of extenuating circumstances in connection with the offence (which shall be specified by the order) the licence ought not to be suspended, by order, suspend the licence.

(2) Where—

(a) the holder of a licence is convicted of an offence under—

(i) any provision of this Order, other than an offence to which sub-paragraph (1)(a) applies of which he is convicted in circumstances such as are mentioned in that sub-paragraph, or

(ii) the Food Safety (Northern Ireland) Order 1991, where the offence was committed in or in relation to the licensed premises, or

(b) the holder of a licence or his servant or agent is convicted of an offence under the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985, where—

(i) the offence was committed in the licensed premises, and

(ii) in the case of an offence committed by a servant or agent of the holder of the licence, the offence was committed with the knowledge of the holder of the licence,

the court may suspend the licence.

(3) Without prejudice to paragraph (2), where the holder of a licence in respect of any premises is convicted of an offence under—

(a) Article 41(1)(a) by virtue of a contravention of Article 44 or 45 or

(b) Article 47(4)(b),

the court, instead of suspending the licence under paragraph (2), may—

(i) in the case of an offence under Article 41(1)(a), order that the premises shall not be premises to which Article 44 or 45 applies, or

(ii) in the case of an offence under Article 47(4)(b), order that the premises shall not be premises to which Article 47 applies,

for such period as the court may determine.

(4) The period for which a licence is suspended under paragraph (1) or (2) shall be not less than 1 week or more than 3 months, except that, where in consequence of a conviction such as is mentioned in paragraph (2)(a)(ii) a prohibition order or emergency prohibition order is made under Article 10 or 11 of the said Order of 1991 prohibiting the holder of a licence from using the licensed premises for the purposes of a food business which is or includes the business authorised by the licence, the licence may be suspended for the period during which the order is in force.

(5) The suspension of a licence under paragraph (1) or (2) shall be in addition to any other penalty which may be imposed by the court.

(6) Article 72(5) shall apply where a court suspends a licence under paragraph (1) or (2) as it applies where a court suspends a licence under that Article.

(7) A licence may be suspended under paragraph (1) or (2) for any period notwithstanding that it is due to expire before the commencement of, or during, that period.

Penalty for opening licensed premises during period of suspension

74. Where the holder of a licence himself or by his servant or agent sells intoxicating liquor or makes it available for purchase in the premises or permits it to be consumed in the premises—

(a) on any day on which the licence for the premises is suspended, or

(b) in the case of premises to which an order under Article 73(3) applies, outside the permitted hours specified in Article 42(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 and the court shall order the licence to be suspended for a period or, as the case may be, an additional period of not less than 1 month or more than 1 year.

Procedure in connection with suspension

75.—(1) Where the holder of a licence is charged with an offence under—

- (a) any provision of this Order, or
- (b) the Food Safety (Northern Ireland) Order 1991, where the offence was committed in or in relation to the licensed premises, or
- (c) the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 where the offence was committed in the licensed premises, or
- (c) section 13 of the Criminal Law Amendment Act 1885,

the court may require the register of licences in which particulars of the licence are recorded, or a copy of the entries therein relating to the licence, to be produced for inspection by the court before passing sentence.

(2) A court which suspends a licence or makes an order under Article 73(3) shall order the holder of the licence to deliver it to the clerk of the court within a period specified in the order, unless it has already been so delivered and has not been returned under paragraph (3); and if he contravenes the order he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale or to imprisonment for a term not exceeding 3 months or to both.

(3) The clerk of a court to whom a licence is delivered under paragraph (2) shall—

- (a) if he is not the clerk of petty sessions who keeps the register in which particulars of the licence are recorded, send the licence to that clerk of petty sessions; or
- (b) subject to paragraph (4) if he keeps that register, retain the licence;

and the licence shall not be returned to the holder of the licence until the end of the period of suspension.

(4) The clerk of petty sessions who keeps the register as mentioned in paragraph (3) shall, in the case of a licence for premises with respect to which an order under Article 73(3) applies, note the effect of the order and the period for which it has effect on the licence.

Appeals against suspension of licence, etc.

76.—(1) Where a licence is suspended under Article 72 and the holder of the licence appeals, the licence shall continue in force until the appeal is determined or abandoned.

(2) Where on conviction of an offence a licence is suspended or an order under Article 73(3) is made the suspension or, as the case may be, the order shall not take effect—

- (a) until the expiry of the time for bringing an appeal against the conviction or against the suspension or as the case may be, the making of the order, and
- (b) if such an appeal is brought, until the appeal has been determined or abandoned.