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STATUTORY INSTRUMENTS

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**1996 No. 3158**

**The Licensing (Northern Ireland) Order 1996**

**PART VI**

**MISCELLANEOUS**

*Seamen's canteens*

**Special provisions with respect to grant or renewal of licences for seamen's canteens**

77.—(1) Before application is made for the grant of a licence for a seamen's canteen, draft rules as to the persons entitled to use the canteen shall be prepared.

(2) A copy of the draft rules shall be attached to the notice, and the copies of the notice, mentioned in paragraph 1 (c) of Schedule 1.

(3) Without prejudice to Article 7(4)(b), (c) and (d), a court shall not grant a licence for a seamen's canteen unless the body providing the canteen undertake to make rules for the canteen in the form of the draft, with the modifications, if any, required by the court, and not to vary those rules without the consent of a court.

(4) Without prejudice to Article 15(2), a court shall not renew a licence for a seamen's canteen unless it is satisfied—

- (a) that the rules as to the persons entitled to use the canteen have been observed; and
- (b) that those rules have not been and will not be varied otherwise than with the consent of a court.

(5) An application for consent to the variation of rules under this Article may be made to a court of summary jurisdiction.

*Wholesale dealers*

**Sales by wholesalers, etc.**

78.—(1) A wholesaler within the meaning of section 4 of the Alcoholic Liquor Duties Act 1979 shall not sell intoxicating liquor to any person in Northern Ireland other than a person mentioned in paragraph (2) unless—

- (a) the wholesaler is the holder of a licence under this Order for premises which are either of a kind mentioned in Article 5(1)(a) or (b) or an hotel to which Article 5(5)(b)(ii) applies; and
- (b) the sale is made in those premises during the permitted hours.

(2) The persons referred to in paragraph (1) are—

- (a) the holder of a licence under this Order;
- (b) a wholesaler within the meaning of the said section 4;
- (c) a public body;

- (d) any person who may lawfully sell intoxicating liquor by retail without a licence;
- (e) a club which is registered, or exempted from registration, under the Registration of Clubs (Northern Ireland) Order 1996; or
- (f) any other persons of such classes as may be prescribed by regulations made subject to affirmative resolution.

(3) Any person acting in contravention of paragraph (1) shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(4) A manufacturer of, or wholesale dealer in, cider, notwithstanding that he is not the holder of a licence, may sell cider to the holder of a licence in any quantity.

### *Pharmacists*

#### **Sale of intoxicating liquor, etc., by pharmacists**

79.—(1) A pharmacist notwithstanding that he does not hold a licence may sell or supply medicine consisting of or including intoxicating liquor, if—

- (a) subject to paragraph (2), it is sold or supplied for use in accordance with the order or prescription of a doctor; or
- (b) it is of a kind prescribed by regulations.

(2) The order or prescription—

- (a) shall be produced to the pharmacist before the sale or supply of the medicine, and shall not be returned to the person for whose benefit it was given or to any other person acting on his behalf; and
- (b) shall be authority for the sale or supply of such a medicine on one occasion only.

(3) The provisions of this Order, other than this Article, shall not apply to the sale or supply of intoxicating liquor as or in medicine by a pharmacist in accordance with paragraphs (1) and (2).

### *Vessels, aircraft and trains*

#### **Licences for non-seagoing vessels**

80.—(1) A licence may be granted in respect of a vessel other than a seagoing vessel as if it were premises situated at the place from which it plies and notwithstanding that it is not premises of a kind mentioned in Article 5(1).

(2) When a court grants a licence under paragraph (1) it may attach to the licence such conditions as it thinks fit.

(3) Without prejudice to Article 15(2), a court shall not renew a licence granted under paragraph (1) unless it is satisfied that the conditions of the licence have been observed.

(4) The conditions of a licence granted under paragraph (1) may be varied by a court which renews or transfers the licence.

(5) If any condition of a licence granted under paragraph (1) is not observed, the holder of the licence and the master of the vessel shall each be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale..

(6) Without prejudice to paragraphs (1) to (5), Article 3(4) and Article 67(10), this Order shall apply in relation to a vessel for which a licence is in force as if the vessel were premises.

(7) In the provisions of this Order relating to offences by the holders of licences, any reference to the holder of a licence for a vessel shall include a reference to the master of the vessel and any

reference to a servant or agent of the holder shall, in relation to the master, include a reference to any person employed in the vessel.

### **Application of Order to certain seagoing vessels and to aircraft and railway passenger vehicles**

**81.**—(1) This Order shall not prohibit the sale without a licence of intoxicating liquor to passengers in a seagoing vessel, an aircraft or a railway passenger vehicle for consumption on board the vessel, aircraft or vehicle, if the following conditions are observed.

(2) The conditions mentioned in paragraph (1) are—

- (a) that the vessel, aircraft or vehicle is of a kind employed for the carriage of passengers;
- (b) in the case of a vessel, that the vessel is one which plies between a place in Northern Ireland and a place in a country other than Northern Ireland and that the liquor is sold only—
  - (i) during the period commencing I and a half hours before the time fixed for departure and ending at the time of departure; and
  - (ii) while the vessel is being navigated;
- (c) in the case of an aircraft, that the liquor is sold only while the aircraft is in flight;
- (d) in the case of a railway passenger vehicle, that the vehicle is one in which passengers can be supplied with food and the liquor is served in the course of a railway journey on which fare paying passengers are carried by a railway undertaking.

### *Legal proceedings*

#### **Evidence**

**82.**—(1) Evidence that a transaction in the nature of a sale of intoxicating liquor took place shall, in any proceedings relating to an offence under this Order, be evidence of the sale of the liquor without proof that money passed.

(2) Evidence that consumption of intoxicating liquor was about to take place shall in any such proceedings be evidence of the consumption of intoxicating liquor without proof of actual consumption.

(3) Evidence that any person, other than the licence holder or his servant or agent obtained, consumed or intended to consume intoxicating liquor in licensed premises shall be evidence that the liquor was sold to that person by the holder of the licence or his servant or agent.

(4) Where intoxicating liquor in open containers is found in any premises, consumption of intoxicating liquor shall, in any proceedings for a contravention of any provision of this Order, be deemed to have taken place in those premises, unless the contrary is proved.

(5) Where it is proved that intoxicating liquor has been sold in or in any part of licensed premises and taken outside those premises or that part, it shall be deemed to have been sold for consumption off the premises or, as the case may be, that part, unless the contrary is proved.

#### **Appeals**

**83.**—(1) Without prejudice to Articles 61 and 65 of the County Courts (Northern Ireland) Order 1980, any party to the proceedings who is dissatisfied with a decision of a county court on an application made to it under this Order may appeal from that decision as if the decision had been made in exercise of the jurisdiction conferred by Part III of that Order of 1980 and the appeal were brought under Article 60 of that Order of 1980.

(2) For the purposes of—

- (a) paragraph (1),
- (b) Articles 61 and 62 of the County Courts (Northern Ireland) Order 1980,
- (c) Articles 143 and 146 of the Magistrates' Courts (Northern Ireland) Order 1981,

a person who appears as an objector in any proceedings under this Order shall be deemed to be a party to the proceedings.

### *Supplemental*

#### **Exemptions and savings**

**84.** Nothing in this Order shall—

- (a) affect the operation of the Planning (Northern Ireland) Order 1991;
- (b) apply to the sale or consumption of intoxicating liquor to or in any canteen in which the sale of intoxicating liquor is carried on under the authority of the Secretary of State or the Police Authority for Northern Ireland or to or in any authorised mess of members of Her Majesty's naval, military or air forces;
- (c) prejudice or affect the sale by any manufacturing or wholesale chemist of spirits of wine wholesale for medicinal purposes to registered medical practitioners, duly registered pharmaceutical chemists or persons requiring the spirits for use for scientific purposes in any laboratory;
- (d) apply to the sale or supply of medicated spirits or spirits or spirituous liquor made up in medicine by a doctor;
- (e) apply to intoxicating liquor in confectionery which—
  - (i) does not contain intoxicating liquor in a proportion greater than 200 millilitres of liquor (containing a quantity of ethyl alcohol amounting to 57 per cent. of the volume of the liquor inclusive of the alcohol contained in it as at 20°C) per kilogram of the confectionery; and
  - (ii) either consists of separate pieces weighing not more than 42 and a half grams or is designed to be broken into such pieces for the purposes of consumption;
- (f) apply to the sale of intoxicating liquor to or by a public body exercising functions in connection with the training of persons who are or propose to become engaged or employed in the hotel or catering industry, if it is supplied with meals prepared or served by such persons by way of demonstration or consumed as ancillary to such a meal.

#### **Modifications of Schedules, amendments, transitional provisions, savings and repeals**

**85.**—(1) The provisions of Schedule 1, paragraph 3 of Schedule 3 and Part I of Schedule 8 may be modified by county court rules and the provisions of Schedules 4 to 7, Part II of Schedule 8 and Schedules 9 and 10 may be modified by magistrates' courts rules, and any rules made under this paragraph may make consequential modifications of this Order.

(2) The statutory provisions set out in Schedule 11 shall have effect subject to the amendments specified in that Schedule.

(3) The transitional provisions and savings contained in Schedule 12 shall have effect for the purposes of this Order.

(4) The statutory provisions set out in Schedule 13 are hereby repealed to the extent specified in column 3 of that Schedule.