

## SCHEDULE

Section 28.

## CONSEQUENTIAL AMENDMENTS

*The Roads (Northern Ireland) Order 1993 (NI 15)*

1. In Article 71(2) (offence of erecting structure on road), after paragraph (b) insert—

“(ba) in pursuance of a pavement café licence under the Licensing of Pavement Cafés Act (Northern Ireland) 2014; or”.

*The Licensing (Northern Ireland) Order 1996 (NI 22)*

2. After Part 5 insert—

## “PART 5A

## PAVEMENT CAFE AREAS

**Pavement café areas: definitions**

**76A.**—(1) In this Part, a “pavement café area” means a public area which—

- (a) is an area shown, under section 5 of the Licensing of Pavement Cafés Act (Northern Ireland) 2014, on the plan in a pavement café licence which is in force; and
- (b) for the time being has temporary furniture on it that under the terms of the pavement café licence is permitted to be on that area at that time.

(2) For the purposes of this Part, a pavement café area is “associated with” particular premises if those premises are (or are part of) the premises in respect of which the pavement café licence relating to the pavement café area was granted.

(3) In this Part the following expressions have the same meaning as in the Licensing of Pavement Cafés Act (Northern Ireland) 2014—

- “pavement café licence”;
- “public area”;
- “temporary furniture”.

**Sale for consumption on pavement café area not prohibited by Article 5(3)(b) or 51 in certain cases**

**76B.**—(1) This Article applies where—

- (a) a pavement café area is associated with premises for which a licence is in force;
- (b) those premises are—
  - (i) a hotel;
  - (ii) a guest house in which the business of a restaurant is carried on;
  - (iii) a restaurant; or
  - (iv) a refreshment room in public transport premises; and
- (c) the pavement café licence relating to the pavement café area does not include a condition requiring the licence holder not to permit persons to consume intoxicating liquor when using furniture on that area.

(2) For the purposes of the reference in Article 5(3)(b) to consumption off the premises, the pavement café area is to be treated as part of the premises.

(3) If the premises are a hotel, the pavement café area is also to be treated as part of the premises for the purposes of the references in Article 5(5)(b) to consumption off the premises and to a diner in the premises.

- (4) If—
  - (a) the premises are a restaurant, or a guest house in which the business of a restaurant is carried on, and
  - (b) the business of the restaurant is carried on partly on the pavement café area,

the pavement café area is also to be treated for the purposes of Article 51(4)(a)(ii) (and, in the case of a guest house, Article 51(2)) as being a part of the restaurant.

**Pavement café area where consumption permitted: hours, conduct etc.**

**76C.—**(1) This Article applies where—

- (a) a pavement café area is associated with premises for which a licence is in force;
- (b) those premises are—
  - (i) premises of a kind mentioned in Article 5(1)(a);
  - (ii) a hotel;
  - (iii) a guest house in which the business of a restaurant is carried on;
  - (iv) a restaurant; or
  - (v) a refreshment room in public transport premises; and

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*Status: This is the original version (as it was originally enacted).*

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(c) the pavement café licence relating to the pavement café area does not include a condition requiring the licence holder not to permit persons to consume intoxicating liquor when using furniture on that area.

(2) For the purposes of the provisions mentioned in paragraph (3), the pavement café area is to be treated as part of the licensed premises with which it is associated.

(3) Those provisions are—

Article 41(1)(a)(ii), (c) and (d);

in Article 46—

(a) any reference in paragraph (1)(a) to consumption in the premises;

(b) the reference in paragraph (1)(b) to taking liquor from the premises;

Article 57A;

Article 60(1)(b) and (d)(i);

Articles 61 to 65;

in Article 69J(2), the reference to the premises;

Articles 73 and 74; and

Article 82.

(4) If the premises are of a kind mentioned in Article 5(1)(a), the pavement café area is also to be treated as part of the premises for the purposes of—

(a) any reference in Article 43(2), 50(1) or 58(1)(a) to consumption off the premises or to consumption in the premises; and

(b) where there is a condition under Article 43(2) in relation to the premises, any reference in that condition to consumption in the premises.

(5) If the premises are a hotel, the pavement café area is also to be treated as part of the premises for the purposes of the reference in Article 50(1) to consumption off the premises.

### **Young persons prohibited from certain pavement café areas**

**76D.**—(1) This Article applies where—

(a) Article 76C applies; and

(b) the pavement café area is used exclusively or mainly for the consumption of intoxicating liquor.

(2) For the purposes of Article 58(1)(c) and (2) to (14) (young persons prohibited from certain premises), the pavement café area is to be treated—

- (a) as part of the licensed premises with which it is associated;
- (b) as if it were a part falling within Article 58(1)(c)(ii); and
- (c) accordingly, as being included in any reference in Article 58 to any part of the licensed premises as mentioned in paragraph (1) of that Article.

(3) If a children's certificate is in force in respect of any part of the premises with which the pavement café area is associated, then (subject to paragraph (4)) the pavement café area is also to be treated for the purposes of Article 58(5)(b) as if it were a part of the premises for which the children's certificate is in force.

(4) If a children's certificate is in force in respect of any part of the premises with which the pavement café area is associated—

- (a) the powers of a court of summary jurisdiction under Article 59(8) include power, on the application of the holder of the licence, to revoke the children's certificate so far as relating to the pavement café area; and
- (b) the powers of a court of summary jurisdiction under Article 59(9) include power to revoke the children's certificate so far as relating to the pavement café area if the court is satisfied, upon complaint made under Part 8 of the Magistrates' Courts (Northern Ireland) Order 1981—
  - (i) that the pavement café area does not constitute an environment in which it is suitable for a person under the age of 18 to be present; or
  - (ii) in the case of a complaint made as mentioned in Article 59(9)(b), that any condition specified in Article 59(2)(b) to (d) or in Article 58(5) is not being complied with in respect of the pavement café area.

#### **Off-licence: penalty for consumption on pavement café area**

**76E.**—(1) This Article applies where—

- (a) a pavement café area is associated with premises for which a licence is in force; and
- (b) those premises are of a kind mentioned in Article 5(1)(b).

(2) For the purposes of the provisions mentioned in paragraph (3), the pavement café area is to be treated as part of the licensed premises with which it is associated.

- (3) Those provisions are—  
Article 57(1)(a);

Article 82(3) and (4).”.

*The Street Trading Act (Northern Ireland) 2001 (c. 8)*

- 3.—(1) Section 2 (activities which are not street trading) is amended as follows.
- (2) In subsection (1), after paragraph (e) insert—
- “(f) where a pavement café licence is in force, trading carried out in the area covered by the licence, if the trading—
- (i) takes place at a time when that area has temporary furniture on it that under the terms of the licence is permitted to be there at that time;
  - (ii) is done in the course of a business which is carried on by the licence holder at the premises specified in the licence;
  - (iii) relates to the supply of food or drink in or from those premises for consumption on that area; and
  - (iv) does not involve a contravention of the conditions of the licence.”.

(3) After subsection (4) insert—

“(5) Expressions used in paragraph (f) of subsection (1) and in the Licensing of Pavement Cafés Act (Northern Ireland) 2014 have the same meaning in that paragraph as in that Act.”.

*The Criminal Justice (Northern Ireland) Order 2008 (NI 1)*

- 4.—(1) Article 70 (designated public places) is amended as follows.
- (2) In paragraph (2) (places that are not designated public places for the purposes of Articles 68 to 71 of that Order), after sub-paragraph (a) insert—
- “(aa) a relevant pavement café area;”.
- (3) After paragraph (6) insert—
- “(7) In this Article “a relevant pavement café area” means a public area which—
- (a) is an area shown under section 5 of the Licensing of Pavement Cafés Act (Northern Ireland) 2014 on the plan in a pavement café licence which is in force;
  - (b) for the time being has temporary furniture on it that under the terms of that licence is permitted to be on that area at that time;
  - (c) is associated with licensed premises which are—
    - (i) premises of a kind mentioned in Article 5(1)(a) of the Licensing (Northern Ireland) Order 1996;
    - (ii) a hotel;

- (iii) a guest house in which the business of a restaurant is carried on;
  - (iv) a restaurant; or
  - (v) a refreshment room in public transport premises; and
  - (d) is not subject to an alcohol condition.
- (8) For the purposes of paragraph (7)—
- (a) the area is “associated with” particular premises if those premises are (or are part of) the premises in respect of which the pavement café licence relating to the area was granted;
  - (b) the area is “subject to an alcohol condition” if the pavement café licence relating to the area includes a condition requiring the licence holder not to permit persons to consume intoxicating liquor when using furniture on the area.”.

5.—(1) Article 72 (interpretation of Articles 68 to 71) is amended as follows.

(2) In the definition of “intoxicating liquor”, “licensed premises” and “occasional licence”—

- (a) before ““intoxicating liquor” insert ““guest house”, “hotel”,”;
- (b) for “and “occasional licence”” substitute “, “occasional licence”, “public transport premises” and “restaurant””.

(3) after that definition insert—

““pavement café licence”, “public area” and “temporary furniture” have the same meanings as in the Licensing of Pavement Cafés Act (Northern Ireland) 2014;”.