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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**

*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.