
STATUTORY INSTRUMENTS

1991 No. 1462

The Cinemas (Northern Ireland) Order 1991

Introductory

Title and commencement

1.—(1) This Order may be cited as the Cinemas (Northern Ireland) Order 1991.

(2) This Order shall come into operation on the expiration of two months from the day on which it is made.

Interpretation

2.—(1) Subject to paragraph (5), the Interpretation Act (Northern Ireland) 1954⁽¹⁾ shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order—

“the appropriate sub-divisional commander”, in relation to any premises, means the sub-divisional commander of the Royal Ulster Constabulary acting for the police sub-division in which those premises are situated;

“child” means a person under the age of sixteen;

“the Department” means the Department of the Environment;

“film exhibition” means any exhibition of moving pictures which is produced otherwise than by the simultaneous reception and exhibition of programmes included in a programme service; and for the purposes of this definition “programme” and “programme service” have the same meanings as in the Broadcasting Act 1990⁽²⁾;

“the Fire Authority” means the Fire Authority for Northern Ireland;

“licence” means a licence under Article 3 or a consent under Article 4 and references to a licence of either kind shall be construed accordingly.

(3) Any reference in this Order to an exhibition which requires a licence under Article 3 is a reference to an exhibition to which that Article applies; and any reference in this Order to an exhibition which requires a consent under Article 4 is a reference to an exhibition to which that Article applies.

(4) Any reference in this Order to a district council, in relation to any premises, is a reference to the district council in whose district the premises are situated.

(5) For the purposes of this Order, section 20⁽²⁾ of the Interpretation Act (Northern Ireland) 1954⁽³⁾ applies with the omission of the words “the liability of whose members is limited” and, where the affairs of a body corporate are managed by its members, applies in relation to the acts

(1) 1954 c. 33 (N.I.)

(2) 1990 c. 42

(3) 1954 c. 33 (N.I.)

and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

Control of exhibitions

Licence required for exhibitions

3.—(1) Subject to Articles 7 to 10, no premises shall be used for a film exhibition unless they are licensed for the purpose under this Article.

(2) A district council may grant a licence under this Article to such a person as it thinks fit to use any premises specified in the licence for the purpose of film exhibitions on such terms and conditions and subject to such restrictions as, subject to regulations under Article 6, it may determine.

(3) Without prejudice to the generality of paragraph (2), it shall be the duty of a district council, in granting a licence under this Article as respects any premises,—

- (a) to impose conditions or restrictions prohibiting the admission of children to film exhibitions involving the showing of works designated, by the council or by such other body as may be specified in the licence, as works unsuitable for children; and
- (b) to consider what (if any) conditions or restrictions should be imposed as to the admission of children to other film exhibitions involving the showing of works designated, by the council or by such other body as may be specified in the licence, as works of such other description as may be so specified.

Consent required for exhibitions for children

4.—(1) Subject to Articles 7 and 8, no premises shall be used, except with the consent of the district council, for a film exhibition organised wholly or mainly as an exhibition for children.

(2) Subject to regulations under Article 6, a district council may, without prejudice to any conditions or restrictions imposed by it on the granting of a licence, impose special conditions or restrictions on the granting of a consent under this Article.

Grant, renewal and transfer of licence or consent

5.—(1) An applicant for the grant, renewal or transfer of a licence in respect of any premises shall give to—

- (a) the district council,
- (b) the Fire Authority, and
- (c) the appropriate sub-divisional commander,

not less than 28 days' notice of his intention to make the application.

(2) The district council may in such cases as it thinks fit, after consulting with the Fire Authority and the appropriate sub-divisional commander, grant an application for the grant, renewal or transfer of a licence notwithstanding the fact that the applicant has failed to give notice in accordance with paragraph (1).

(3) In considering any application for the grant, renewal or transfer of a licence, the district council shall have regard to any observations submitted to it by the Fire Authority or by the appropriate sub-divisional commander.

(4) Unless revoked under Article 14, a licence shall remain in force for one year or for such shorter period as the district council on the grant of the licence may determine.

(5) A district council may transfer any licence granted by it to such other person as it thinks fit.

(6) Where, before the date of expiry of a licence, an application has been made for its renewal or transfer, the licence shall be deemed to remain in force or, as the case may require, to have effect with any necessary modifications until the determination of the application by the district council or the withdrawal of the application.

(7) There shall be paid in respect of the grant, renewal or transfer of a licence such fees as may be fixed by the district council not exceeding—

- (a) in the case of a grant or renewal for one year, £173.50;
- (b) in the case of a grant or renewal for any less period, £58 for each month for which the licence is granted or renewed but so that the aggregate of the fees payable in any year does not exceed £173.50; or
- (c) in the case of a transfer, £35.

(8) The Department may by order amend paragraph (7)

so as to vary any sum specified in that paragraph or so as to provide that any sum payable under that paragraph shall cease to be so payable.

(9) An order under paragraph (8) shall be subject to negative resolution.

Regulations by Department

6.—(1) Subject to Articles 7 and 8, no film exhibition shall be given unless regulations made by the Department under this Article are complied with.

(2) The matters for which provision may be made by regulations under this Article are—

- (a) safety in connection with the giving of film exhibitions (including the keeping and handling, in premises where other entertainments are being given or meetings held, of cinematograph film used or to be used for the purposes of film exhibitions or other articles or equipment so used or to be used);
- (b) the health and welfare of children in relation to attendance at film exhibitions.

(3) Regulations under this Article shall be subject to negative resolution.

Exempted exhibitions

Exhibitions in private dwelling-houses

7.—(1) This Article applies to any film exhibition which—

- (a) is given in a private dwelling-house,
- (b) is one to which the public are not admitted, and
- (c) satisfies the condition mentioned in paragraph (2).

(2) The condition referred to in paragraph (1)(c) is that either—

- (a) the exhibition is not promoted for private gain, or
- (b) the sole or main purpose of the exhibition is to demonstrate any product, to advertise any goods or services or to provide information, education or instruction.

(3) The following exemptions have effect in relation to any film exhibition to which this Article applies, that is to say—

- (a) a licence shall not be required by reason only of the giving of the exhibition;
- (b) where the exhibition is given in premises in respect of which a licence is in force, no condition or restriction on or subject to which the licence was granted shall apply to the exhibition;

- (c) regulations under Article 6 shall not apply to the exhibition.

Other non-commercial exhibitions

8.—(1) Subject to paragraphs (4) and (5), this Article applies to any film exhibition (other than one to which Article 7 applies) which—

- (a) is one to which the public are not admitted or are admitted without payment, or
- (b) does not fall within sub-paragraph (a) but is given by an exempted organisation, and (in either case) satisfies the condition mentioned in paragraph (2).

(2) The condition referred to in paragraph (1) is that either—

- (a) the exhibition is not promoted for private gain, or
- (b) the sole or main purpose of the exhibition is to demonstrate any product, to advertise any goods or services or to provide information, education or instruction.

(3) The following exemptions have effect in relation to any film exhibition to which this Article applies, that is to say—

- (a) a licence under Article 3 shall not be required by reason only of the giving of the exhibition unless the pictures are produced by means specified in regulations under Article 6 as means involving such risk that it is inexpedient that this sub-paragraph should have effect;
- (b) where the exhibition is given in premises in respect of which a licence under Article 3 is in force, no condition or restriction on or subject to which the licence was granted shall apply to the exhibition except so far as it relates to the matters specified in Article 6(2)(a);
- (c) a consent under Article 4 shall not be required by reason only of the giving of the exhibition;
- (d) where the exhibition is given in premises in respect of which a consent under Article 4 is in force, no condition or restriction on or subject to which the consent was granted shall apply to the exhibition;
- (e) regulations under Article 6 making such provision as is mentioned in paragraph (2)(b) of that Article shall not apply to the exhibition and regulations under that Article making such provision as is mentioned in paragraph (2)(a) of that Article shall not apply to the exhibition unless it is given in premises in respect of which a licence under Article 3 is in force.

(4) A film exhibition is excluded from being one to which this Article applies if it is organised solely or mainly as an exhibition for children who are members of a club, society or association the principal object of which is attendance at film exhibitions, unless the exhibition is given in a private dwelling-house or as part of the activities of an educational or religious institution.

(5) A film exhibition is excluded from being one to which this Article applies by virtue of sub-paragraph (b) of paragraph (1) if on more than three out of the last preceding seven days the premises in question were used for the giving of a film exhibition to which this Article applied by virtue of that sub-paragraph.

(6) In this Article “exempted organisation” means a society, institution, committee or other organisation with respect to which there is in force at the time of the exhibition in question a certificate given by the Department certifying that the Department is satisfied that the organisation is not conducted or established for profit; and there shall be paid to the Department in respect of the giving of such a certificate such reasonable fee as it may determine.

(7) The Department shall not give such a certificate with respect to any organisation—

- (a) the activities of which appear to the Department to consist of or include the giving of film exhibitions promoted for private gain, or

- (b) the objects of which do not appear to the Department to consist of or include the giving of film exhibitions to which the public are admitted;

and the Department may revoke such a certificate at any time if it appears to the Department that, since the certificate was given, the activities of the organisation have consisted of or included the giving of film exhibitions promoted for private gain.

Exhibitions in premises used occasionally

9.—(1) Where the premises in which it is proposed to give a film exhibition are premises used occasionally and exceptionally only, and not on more than six days in any one calendar year, for the purposes of such an exhibition, it shall not be necessary to obtain a licence under Article 3 if—

- (a) the occupier of the premises has given to the district council, to the Fire Authority and to the appropriate sub-divisional commander, not less than 14 days' notice in writing of his intention so to use the premises; and
- (b) he complies with any regulations under Article 6 and, subject to any such regulations, with any conditions imposed by the district council and notified to him in writing.

(2) For the purposes of paragraph (1), the giving in any premises of an exhibition to which Article 7 or 8 applies shall be disregarded.

Exhibitions in movable buildings, etc.

10. Where it is proposed to give a film exhibition in any building or structure of a movable character, it shall not be necessary to obtain a licence under Article 3 from the district council in whose district the exhibition is to be given if—

- (a) the owner of the building or structure has been granted a licence under Article 3 in respect of that building or structure by the district council in whose district he ordinarily resides;
- (b) he has given to the district council in whose district the exhibition is to be given, to the Fire Authority and to the sub-divisional commander of the Royal Ulster Constabulary acting for the police sub-division in which the exhibition is to be given not less than 7 days' notice in writing of his intention to give the exhibition; and
- (c) he complies with any regulations under Article 6 and, subject to any such regulations, with any conditions imposed by the district council in whose district the exhibition is to be held and notified to him in writing.

Exhibitions on Sundays

Exhibitions on Sundays

11.—(1) A person shall not be guilty of an offence under the Sunday Observance Act (Ireland) 1695(4)—

- (a) by reason of his having managed, conducted, assisted at or otherwise taken part in or attended or advertised a film exhibition at any premises allowed under this Article to be opened and used on Sundays for the purpose of film exhibitions; or
- (b) by reason of his being the keeper of any premises opened and used on Sundays for the purpose of any film exhibition for which they are allowed under this Article to be so opened and used.

(2) The district council may allow premises in respect of which a licence under Article 3 is in force to be opened and used on Sundays for the purpose of film exhibitions, subject to conditions for

securing that the requirement mentioned in paragraph (3) is satisfied and to such other conditions as the council thinks fit to impose.

(3) The requirement referred to in paragraph (2) is that no person will be employed by any employer on a Sunday in connection with a film exhibition or any other exhibition or entertainment given with a film exhibition who has been employed on each of the six previous days either by that employer in any occupation or by any other employer in connection with similar exhibitions or entertainments.

(4) In the event of any contravention of any condition subject to which premises were allowed under this Article to be opened and used on Sundays for the purpose of film exhibitions, the holder of the licence granted under Article 3 in respect of those premises shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(5) If, in any premises allowed under this Article to be opened and used on Sundays for the purpose of film exhibitions, any person is employed on a Sunday contrary to the conditions subject to which the premises were allowed to be so opened and used, but it is proved that his employment fell within paragraph (6) or (7), that employment shall be taken not to have been a contravention of those conditions.

(6) A person's employment on a Sunday falls within this paragraph if—

- (a) his employment was solely due to an emergency caused by a mechanical breakdown, or to the unavoidable absence of a skilled worker due to attend on the Sunday for whom no substitute could readily have been obtained; and
- (b) the emergency was notified to the district council within twenty-four hours after it occurred; and
- (c) he received a day's rest in lieu of that Sunday.

(7) A person's employment on a Sunday falls within this paragraph if—

- (a) he was employed contrary to the conditions by reason only of his having been employed on each of the six days previous to that Sunday in connection with similar exhibitions or entertainments by an employer other than the employer ("the later employer") who employed him on the Sunday; and
- (b) the later employer had, after making due inquiry, reasonable ground for believing that he had not been so employed.

Enforcement

Offences

12.—(1) If—

- (a) any premises in respect of which a licence under Article 3 is not in force are used for an exhibition which requires such a licence,
- (b) any premises in respect of which a consent under Article 4 is not in force are used for an exhibition which requires such a consent,
- (c) any premises in respect of which a licence of either kind is in force are used for an exhibition which requires a licence of that kind and are so used otherwise than in accordance with the terms, conditions or restrictions on or subject to which the licence is held,
- (d) any premises in respect of which a licence under Article 3 is in force are used for an exhibition to which Article 8 applies and are so used otherwise than in accordance with the conditions or restrictions on or subject to which the licence is held, so far as they relate to the matters specified in Article 6(2)(a), or

(e) any premises are used for an exhibition to which regulations under Article 6 apply and are so used in contravention of those regulations,
then, subject to paragraph (3), each of the persons mentioned in paragraph (2) shall be guilty of an offence.

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

- (a) any person concerned in the organisation or management of the exhibition,
- (b) where a licence of either kind is in force in respect of the premises and the exhibition requires a licence of that kind, the holder of the licence,
- (c) where a licence under Article 3 is in force in respect of the premises and the exhibition is one to which Article 8 applies, the holder of the licence under Article 3,
- (d) any other person who, knowing or having reasonable cause to suspect that the premises would be used as mentioned in that paragraph—
 - (i) allowed the premises to be so used, or
 - (ii) let the premises, or otherwise made them available, to any person by whom an offence in connection with that use of the premises has been committed.

(3) It shall be a defence for a person charged with an offence under paragraph (1) to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

Penalties and forfeitures

13.—(1) A person guilty of an offence under paragraph (1) of Article 12 shall be liable on summary conviction to a fine not exceeding—

- (a) in the case of an offence under sub-paragraph (a) of that paragraph, £20,000,
- (b) in any other case, level 5 on the standard scale.

(2) Subject to paragraph (3), the court by or before which a person is convicted of an offence under Article 12(1)(a) may order any thing produced to the court, and shown to the satisfaction of the court to relate to the offence, to be forfeited and dealt with in such manner as the court may order.

(3) The court shall not order any thing to be forfeited under paragraph (2), where a person claiming to be the owner of or otherwise interested in it applies to be heard by the court, unless an opportunity has been given to him to show cause why the order should not be made.

Revocation of licence or consent

14.—(1) If the holder of a licence under Article 3 is convicted of—

- (a) an offence under Article 12(1), or
- (b) an offence under section 30 of the Children and Young Persons Act (Northern Ireland) 1968(5) (failing to provide for safety of children at entertainments) in respect of an entertainment provided at the premises to which the licence relates,

the district council may revoke the licence.

(2) If the holder of a consent under Article 4 is convicted of an offence under Article 12(1), the district council may revoke the consent.

Powers of entry

15.—(1) Where a constable or an authorised officer of the district council or of the Fire Authority has reasonable cause to believe that—

- (a) any premises in respect of which a licence of either kind is in force are being or are about to be used for an exhibition which requires a licence of that kind,
- (b) any premises in respect of which a licence under Article 3 is in force are being or are about to be used for an exhibition to which Article 8 applies, or
- (c) any premises in respect of which notice has been given under Article 9 or 10 are being or are about to be used for an exhibition which, but for that Article, would require a licence under Article 3,

he may enter and inspect the premises with a view to seeing whether the relevant provisions are being complied with.

(2) An authorised officer of the Fire Authority may, on giving not less than 24 hours' notice—

- (a) to the occupier of any premises in respect of which a licence is in force, or
- (b) to the occupier of any premises in respect of which notice has been given under Article 9 or 10,

enter and inspect the premises for the purpose of ensuring that there are adequate fire precautions and of seeing whether the relevant provisions, so far as they relate to fire precautions, are being complied with.

(3) A constable or authorised officer of the district council may enter and search any premises in respect of which he has reason to believe that an offence under Article 12(1) has been, is being or is about to be committed if authorised to do so by a warrant granted by a justice of the peace.

(4) The power conferred by paragraph (3) does not extend to authorising a search for material of the kinds mentioned in Article 11(2) of the Police and Criminal Evidence (Northern Ireland) Order 1989(6) (privileged, excluded and special procedure material).

(5) A constable or authorised officer of the district council who enters and searches any premises under the authority of a warrant issued under paragraph (3) may seize and remove any apparatus or equipment or other thing whatsoever found on the premises which he has reasonable cause to believe may be liable to be forfeited under Article 13(2).

(6) Where an authorised officer of the district council or of the Fire Authority enters any premises in the exercise of any power under this Article he shall, if required to do so by the occupier, produce to the occupier his authority.

(7) Any person who intentionally obstructs the exercise of any power conferred by this Article shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(8) In this Article “relevant provisions” means—

- (a) in a case falling within paragraph (1)(a) or (2)(a), regulations under Article 6 and the terms, conditions and restrictions on or subject to which the licence is held,
- (b) in a case falling within paragraph (1)(b), regulations under that Article making such provision as is mentioned in sub-paragraph (a) of paragraph (2) of that Article and the conditions and restrictions on or subject to which the licence under Article 3 is held so far as they relate to the matters specified in that sub-paragraph,
- (c) in a case falling within paragraph (1)(c) or (2)(b), regulations under that Article and any conditions notified in writing by the district council to the occupier of the premises;

and in relation to any premises in respect of which notice has been given under Article 10 any reference in this Article to the occupier shall be construed as a reference to the owner.

(9) For the purposes of this Article any conditions subject to which any premises are allowed under Article 11 to be opened and used on Sundays shall be taken to be conditions of the licence granted under Article 3 in respect of those premises.

Appeals

Appeals against decisions of district councils

16.—(1) Any person aggrieved—

- (a) by the refusal or revocation of a licence,
- (b) by any terms, conditions or restrictions on or subject to which a licence is granted, or
- (c) by the refusal of a renewal or transfer of a licence,

may appeal to the county court.

(2) Any person aggrieved—

- (a) by the refusal to allow any premises to be opened and used on Sundays for the purpose of film exhibitions under paragraph (2) of Article 11, or
- (b) by any conditions imposed under that paragraph,

may appeal to the county court.

(3) Where the decision against which an appeal under this Article is brought was given on an application of which (in accordance with Article 5(1)) notice was required to be given to the Fire Authority and the appropriate sub-divisional commander, any notice of appeal under this Article against that decision shall be given to that Authority and that sub-divisional commander as well as to any other person to whom it is required to be given apart from this paragraph.

(4) Where a licence is revoked it shall be deemed to remain in force during the period within which an appeal under this Article may be brought and, if such an appeal is brought, until the determination or abandonment of the appeal.

(5) Where an application for the renewal or transfer of a licence is refused, the licence shall be deemed to remain in force or, as the case may require, to have effect with any necessary modifications—

- (a) during any period within which an appeal under this Article may be brought and, if such an appeal is brought, until the determination or abandonment of the appeal; and
- (b) where such an appeal is successful, until the licence is renewed or transferred by the district council.

Miscellaneous and general

Meaning of promotion for private gain

17.—(1) For the purposes of this Order an exhibition is promoted for private gain if, and only if,—

- (a) any proceeds of the exhibition, that is to say, any sums paid for admission to the exhibition, or
- (b) any other sums (whenever paid) which, having regard to all the circumstances, can reasonably be regarded as paid wholly or partly for admission to the exhibition, or

(c) where the exhibition is advertised (whether to the public or otherwise), any sums not falling within sub-paragraph (b) which are paid for facilities or services provided for persons admitted to the exhibition, are applied wholly or partly for purposes of private gain.

(2) If in proceedings for an offence under Article 12(1) any question arises whether an exhibition was promoted for private gain and it is proved—

- (a) that any sums were paid for admission to the exhibition or to the premises at which it was given and that the exhibition was advertised to the public, or
- (b) that any sums were paid for facilities or services provided for persons admitted to the exhibition and that the exhibition was advertised (whether to the public or otherwise), or
- (c) that the amount of any payment falling to be made in connection with the promotion of the exhibition was determined wholly or partly by reference to the proceeds of the exhibition or any facilities or services provided for persons admitted to it,

the exhibition shall be deemed to have been promoted for private gain unless the contrary is shown.

(3) Where an exhibition is promoted by a society which is established and conducted wholly for purposes other than purposes of any commercial undertaking and sums falling within paragraph (1) are applied for any purpose calculated to benefit the society as a whole, the exhibition shall not be held to be promoted for private gain by reason only that the application of those sums for that purpose results in benefit to any person as an individual.

(4) In paragraph (3) “society” includes any club, institution, organisation or association of persons, by whatever name called.

Amendments resulting from Fire Services (Northern Ireland) Order 1984

18. On the coming into operation of Article 34(11) of the Fire Services (Northern Ireland) Order 1984(7) this Order shall have effect subject to the amendments specified in Schedule 1.

Consequential amendments and repeals

19.—(1) The statutory provisions specified in Schedule 2 shall have effect subject to the amendments there specified, being amendments consequential upon the provisions of this Order.

(2) The statutory provisions specified in Schedule 3 are hereby repealed to the extent specified in the third column of that Schedule.

G. I. de Deney
Clerk of the Privy Council