
STATUTORY INSTRUMENTS

1996 No. 3158

The Licensing (Northern Ireland) Order 1996

PART II

THE GENERAL LICENSING SYSTEM

Grant of licences

Grant of licences

- 7.—(1) An application for the grant of a licence shall be made to a county court.
- (2) The procedure for applications for the grant of licences is set out in Part I of Schedule 1.
- (3) On an application for the grant of a licence, the court shall hear the objections, if any, made under Part I of Schedule 1.
- (4) A court shall refuse an application for the grant of a licence unless it is satisfied—
- (a) subject to paragraph (5)(a), that the procedure relating to the application set out in Part I of Schedule 1 has been complied with; and
 - (b) that the applicant is a fit person to hold a licence; and
 - (c) that the premises are of the kind specified in the application; and
 - (d) subject to paragraph (5)(b), that the premises are suitable to be licensed for the sale of intoxicating liquor by retail; and
 - (e) where the premises are of a kind mentioned in Article 5(1)(a) or (b)—
 - (i) subject to paragraph (6), that the number of licensed premises of the kind specified in the application which are in the vicinity of the premises is, and having regard to any licences provisionally granted under Article 9 or any sites approved under Article 10 will be, inadequate; and
 - (ii) subject to paragraph (7), that a subsisting licence for premises of either such kind, or a subsisting licence in respect of which the note and record mentioned in Article 5(5)(a) have been made, has been surrendered to the clerk of the court or will be so surrendered before the licence is issued; and
 - (iii) where, under any statutory provision, the applicant is or will be entitled to compensation for the loss of goodwill which attached or attaches to the business carried on under the licence proposed to be surrendered, that he has abandoned his claim to so much of that compensation as is equivalent to the value of any of that goodwill which is likely to be attracted to the business proposed to be carried on under the new licence; and
 - (f) either—
 - (i) that there is in force planning permission to use the premises as premises of the kind specified in the application for the period during which the licence would be in force; or

- (ii) that the premises may be used as such premises for that period without such permission.
- (5) A court may grant a licence notwithstanding—
- (a) that the procedure relating to the application set out in Part I of Schedule 1 has not been complied with if, having regard to the circumstances, it is reasonable to do so; or
 - (b) that the premises are not suitable to be licensed for the sale of intoxicating liquor if they will be made suitable in consequence of an order under Article 8.
- (6) Without prejudice to paragraph 6 of Schedule 3, paragraph (4)(e)(i) shall not apply where—
- (a) the subsisting licence which is proposed to be surrendered is for premises to which paragraph 2(a) of Schedule 2 applies and which were or are on the site or in the vicinity of the premises for which the licence is sought; or
 - (b) the site of the premises for which the licence is sought has been approved under Article 10 as a site for licensed premises of the kind specified in the application.
- (7) Paragraph (4)(e)(ii) shall not apply—
- (a) where—
 - (i) the premises for which the licence is sought are situated in an area designated by an order under section 1 or 47 of the New Towns Act (Northern Ireland) 1965 as the site of a new town or a town to be expanded or developed under that Act; and
 - (ii) if a new town commission has been established for the purposes of the town, an order has not been made under section 33 of that Act for the winding-up of the commission; or
 - (b) where, at any time during the period of 5 years immediately preceding the date of the application for the licence, a previous licence (including a licence under the Licensing (Northern Ireland) Order 1990 or the Licensing Act (Northern Ireland) 1971 or under statutory provisions repealed by that Act) was in force for the premises for which the licence is sought, as being premises of the kind specified in the application, and has not been surrendered under that Order or Act or any of those statutory provisions or annulled under any of those provisions.
- (8) For the purposes of paragraph (7)(a)(ii) an order under section 131(3)(b) of the Local Government Act (Northern Ireland) 1972 shall have effect as if it were an order under section 33 of the New Towns Act (Northern Ireland) 1965.
- (9) Schedule 2 defines the circumstances in which a licence is or is not to be treated as a subsisting licence.
- (10) Where a court grants a licence in respect of premises of a kind mentioned in Article 5(1)(a) and the applicant for that licence has applied to the court for a direction specifying that on Sundays there shall be no permitted hours on the premises, the court shall give such a direction.
- (11) Where a court grants a licence in respect of a guest house, the court shall attach to the licence a condition that there shall be afforded in the guest house adequate sitting accommodation in a room not used or to be used for sleeping accommodation, for the service of substantial refreshment or for the supply or consumption of intoxicating liquor.
- (12) A court which grants a licence in respect of a place of public entertainment may attach to the licence such conditions as it thinks fit.
- (13) Where by virtue of the grant of a licence in respect of any premises, those premises are licensed premises to which regulations under Article 108(1)(b) of the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 apply the court may, on an application by the sub-divisional commander of the police sub-division in which those premises are situated, give a

direction specifying the number of gaming machines which may be made available for gaming on the licensed premises in accordance with the provisions of Article 108 of that Order.

(14) Where the court refuses an application for the grant of a licence, it shall specify in its order the reasons for its refusal.

(15) Where the court gives a direction under paragraph (10) or (13) the chief clerk shall note the direction on the licence.