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STATUTORY INSTRUMENTS

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**1996 No. 3158 (N.I. 22)**

**NORTHERN IRELAND**

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

*Made* - - - - - *19th December 1996*

*Coming into operation* *20th February 1997*

At the Court at Buckingham Palace, the 19th day of December 1996

Present,

The Queen's Most Excellent Majesty in Council.

Whereas a draft of this Order has been approved by a resolution of each House of Parliament:

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1 of Schedule 1 to the Northern Ireland Act 1974 and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

**PART I**

**INTRODUCTORY**

**Title and commencement**

1.—(1) This Order may be cited as the Licensing (Northern Ireland) Order 1996.

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

**Interpretation**

2.—(1) The Interpretation Act (Northern Ireland) 1954 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—

“appeal”, except in Article 83(1), includes an appeal by way of case stated;

“ballroom” means any premises which are structurally adapted and used or intended to be used for the purpose of public dancing and the use of which for such dancing is licensed under

Schedule 1 to the Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985;

“bar” means an open bar;

“business” includes any business whether or not carried on for profit;

“bus station” means premises which—

- (a) are provided by a statutory body exercising functions under the Transport Act (Northern Ireland) 1967 or by an undertaking which is the holder of a road service licence granted under that Act, and
- (b) include amenities and facilities (including enclosed waiting facilities elsewhere than in a licensed part of the premises) for persons who have used or intend to use the services of such an undertaking;

“children’s certificate” means a certificate granted under Article 59;

“cider” includes perry;

“common part”, in relation to any premises, means a part open to generally to all residents or to a particular class of them;

“conference centre” means any premises for which there is in force a certificate from the Northern Ireland Tourist Board stating that the conference centre conforms to the requirements prescribed by regulations made with the concurrence of the Department of Economic Development;

“the Department” means the Department of Health and Social Services;

“diner” means a person who is partaking of a main table meal or is about to partake of such a meal or has just partaken of such a meal;

“doctor” means a fully registered person within the meaning of section 55 of the Medical Act 1983;

“extension licence” means a licence granted under Article 47(1);

“guest house” means the premises of any establishment allocated by a certificate under Article 13 of the Tourism (Northern Ireland) Order 1992 to the category of tourist establishment mentioned in Article 12(1)(b) of that Order;

“harbour terminal” means premises providing amenities and facilities for persons who have travelled by sea to, or intend to travel by sea from, Northern Ireland which are built upon harbour premises in the vicinity of the point at which such persons embark or disembark;

“higher education institution” has the same meaning as in Article 30(3) of the Education and Libraries (Northern Ireland) Order 1993;

“holder of a licence” includes a person such as is mentioned in Article 28(2);

“hotel”, without prejudice to paragraph (5) means the premises of any establishment allocated by a certificate under Article 13 of the Tourism (Northern Ireland) Order 1992 to the category of tourist establishment mentioned in Article 12(1)(a) of that Order;

“housing authority” means—

- (a) a public body exercising functions under the Housing (Northern Ireland) Order 1981;
- (b) the Department of the Environment;

“intoxicating liquor” means spirits, wine, beer, cider and any other fermented, distilled or spirituous liquor, but does not include—

- (a) angostura bitters;
- (b) perfumes;

- (c) flavouring essences recognised by the Commissioner of Customs and Excise as not being intended for consumption as or with dutiable alcoholic liquor;
- (d) spirits, wine or made-wine so medicated as to be, in the opinion of the Commissioners, intended for use as a medicine and not as a beverage;
- (e) any liquor which is of a strength not exceeding 0.5 per cent at the time of the sale or other conduct in question;

and expressions used in sub-paragraphs (a), (d) and (e) shall have the same meaning as in the Alcoholic Liquor Duties Act 1979;

“licence” means a licence under this Order authorising the sale of intoxicating liquor by retail but except in Articles 58 to 61, 63, 65 and 82(3) does not include an occasional licence;

“licensed premises”—

- (a) except in the case of an hotel, means the part or parts of the premises for which a licence is in force which are delineated in the plan kept by the clerk of petty sessions as the part or parts of those premises in which intoxicating liquor is permitted to be sold by retail;
- (b) in the case of an hotel, means the hotel premises;

and for the purposes of Articles 55, 58 to 65 and 82(3) and (5) includes the place or premises specified in an occasional licence;

“licensing period” means a period of 5 years beginning on 1st October 1997 or any quinquennial of that date;

“main table meal” means a meal which is in its entirety, or q which includes, a main course and which is eaten by a person seated at—

- (a) a table; or
- (b) a counter or other structure which serves the purpose of a table and which is not used—
  - (i) wholly or mainly as a bar; or
  - (ii) for the service of refreshments for consumption by persons not seated at a table or that counter or structure;

“modify” means making additions, omissions, amendments or substitutions;

“notice” means notice in writing;

“occasional licence” means a licence granted under Article 30(1);

“owner”—

- (a) in relation to a business, includes any personal representative, trustee, assignee, committee, liquidator, receiver or guardian carrying on the business in exercise of a power conferred by or under any statutory provision, will or deed;
- (b) in relation to premises, means the person for the time being receiving the rack rent of the premises, whether on his own account or as personal representative, trustee, assignee, committee, liquidator, receiver or guardian, or who would so receive the same if the premises were let at a rack rent;

“permitted hours”, subject to Articles 43, 44, 45 and 47, means the hours specified in Article 42;

“pharmacist” means a registered pharmaceutical chemist;

“place of public entertainment” means—

- (a) premises used as a theatre;
- (b) premises used as a ballroom;

- (c) premises on a licensed track within the meaning of the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985;
- (d) such other premises used for the purposes of such entertainments, in accordance with such conditions, as may be prescribed by regulations made subject to affirmative resolution;

“police sub-division”, in relation to a sub-divisional commander, means the sub-division for which that commander acts;

“protection order” means an order granted under Article 26;

“public body” means a body constituted by or under any statutory provision;

“public part”, in relation to any premises, means a part open to customers who are not residents or guests of residents;

“public place” includes any place to which the public have access whether as of right or by permission and whether subject to or free of charge;

“public transport premises” means a railway station or an airport, or a harbour terminal or bus station as defined by this paragraph;

“regulations” means regulations made by the Department subject (except as otherwise provided in this Order) to negative resolution;

“renewal date” means 1st September;

“resident”, in relation to premises of a kind mentioned in Article 5(1)(a), an hotel or a guest house, means a guest or traveller who has lodged in the premises, hotel, or guest house for the preceding night or has in writing engaged a room for the succeeding night;

“restaurant” means any premises which are structurally adapted and used, or intended to be used, for the purpose of providing persons frequenting the premises with a main table meal at midday or in the evening, or both; but does not include premises of a kind mentioned in Article 5(1)(a) in which there is carried on the business of selling meals or refreshments;

“seamen’s canteen” means any premises provided by a body approved by the Secretary of State which—

- (a) are structurally adapted and used, or intended to be used, for the purpose of providing persons frequenting the premises with food or drink, whether or not the food or drink is separately paid for; and
- (b) are situated in a place for which there is in force a certificate granted by the Secretary of State after consultation with the Merchant Navy Welfare Board stating that there is need for a seamen’s canteen;

“statutory provision” has the meaning assigned to it by section 1(f) of the Interpretation Act (Northern Ireland) 1954;

“sub-divisional commander” means a sub-divisional commander of the Royal Ulster Constabulary;

“suspended licence” means a licence suspended under Part V;

“theatre” means any place which is used primarily and ordinarily for theatrical performances and the use of which for such performances is licensed under Schedule 1 to the Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985;

(3) References in this Order to premises include references to their curtilages.

(4) References in this Order to premises as being of any kind are references to them as being of one of the kinds mentioned in Article 5(1)(a) to (j).

(5) For the purposes of this Order, except the provisions thereof relating to the grant of licences, licensed premises shall be treated as an hotel if—

- (a) a note showing that the licence was granted before 31st July 1902 or under Article 4(1) of the Licensing (Northern Ireland) Order 1978 or Article 12(1) of the Licensing (Northern Ireland) Order 1990 or Article 11(1) of this Order in lieu of such a licence, has been made on the licence and recorded in the register of licences in respect of the premises, and
  - (i) the premises were before 1st October 1968, and continue to be, an hotel as defined in section 1(3) of the Intoxicating Liquor Act (Northern Ireland) 1923, and
  - (ii) the premises are those of an establishment allocated by a certificate under Article 13 of the Tourism (Northern Ireland) Order 1992 to the statutory category of tourist establishment mentioned in Article 12(1)(b) or (c) of that Order; or
- (b) the licence was granted after 30th July 1902 and before 1st October 1968 or a note showing that the licence was granted under Article 4(1) of that Order of 1978 or Article 12(1) of that Order of 1990 or Article 11(1) of this Order in lieu of such a licence has been made on the licence and recorded in the register of licences in respect of the premises, and the premises—
  - (i) at the time of the grant were an hotel as defined in section 2(2) of the Licensing (Ireland) Act 1902 or section 9(a)(ii) of the Intoxicating Liquor Act (Northern Ireland) 1923, and
  - (ii) are those of an establishment allocated by a certificate under Article 13 of the Tourism (Northern Ireland) Order 1992 to the statutory category of tourist establishment mentioned in Article 12(1)(a) of that Order, and
  - (iii) continue to have no public bar for the sale of intoxicating liquor;

and for the purposes of this paragraph where a note and record are made under Article 4(1) of that Order of 1978 or Article 12(1) of that Order of 1990 or Article 11(1) of this Order the licence granted under that Article 4(1) or Article 12(1) or Article 11(1), as the case may require, and the licence in lieu of which that licence is granted shall be treated as a single licence and the premises licensed under those licences shall be treated as the same premises.

(6) In this Order any reference to selling intoxicating liquor by retail is a reference to selling such liquor as mentioned in section 4(4) of the Alcoholic Liquor Duties Act 1979, and any reference to making such liquor available for purchase by retail shall be construed accordingly.

(7) Any request which under any provision of this Order may be made to the holder of a licence may be made to any one of several joint holders or, if the holder is a body corporate, to the secretary or other executive officer of that body.

(8) In this Order any reference, in relation to a licence, to the register of licences is a reference to the part of the register which relates to that licence.

(9) In this Order any reference to the police sub-division in which a person resides shall, where that person is a body corporate, be construed as a reference to each police sub-division in which it carries on business under a licence.

(10) In this Order any reference to a sub-divisional commander of a police sub-division includes a reference to any other member of the Royal Ulster Constabulary nominated by him.

## PART II

### THE GENERAL LICENSING SYSTEM

#### **Prohibition on sale of intoxicating liquor without a licence**

3.—(1) Except as permitted by this Order, it shall be unlawful for any person to sell intoxicating liquor by retail unless he holds a licence authorising him to do so in the course of a business carried on in premises specified in the licence.

(2) Any person who, himself or by his servant or agent,—

- (a) where he is not the holder of a licence, sells intoxicating liquor by retail or makes it available for purchase by retail, or
- (b) where he is the holder of a licence, either sells intoxicating liquor by retail or makes it available for purchase by retail in any premises or place where he is not authorised under this Order to sell such liquor by retail,

shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding 6 months or to both and any intoxicating liquor found in his possession and its containers shall be liable to be forfeited.

(3) Where intoxicating liquor is sold or made available for purchase in any premises in contravention of this Article, every occupier of the premises who is proved to have had knowledge of or consented to the contravention shall be guilty of an offence under this Article.

(4) Without prejudice to Article 80, for the purposes of this Article a vessel shall be deemed to be premises and paragraph (3) shall apply to the master of a vessel as it applies to the occupier of premises.

#### **Persons to whom licences may be granted**

4.—(1) The person to whom a licence is granted (other than a housing authority to whom a licence is granted provisionally) shall be the owner of the business proposed to be carried on under the licence.

(2) A licence may be granted to an individual, to a body corporate or to two or more persons carrying on business in partnership.

(3) In considering the fitness of a person to hold a licence for any premises, a court shall have regard to—

- (a) the character, reputation and financial standing of the applicant;
- (b) the qualifications and experience of the applicant to manage the business which is, or is proposed to be, carried on under the licence, or the qualifications and experience of any person who is, or is proposed to be, employed by him in that behalf;
- (c) the extent to which, by virtue of any estate vested in him, the applicant is entitled to possession and control of the premises.

(4) In considering the fitness of a body corporate to hold a licence, a court shall also have regard to the character, reputation and financial standing of the directors of the body and any other persons who have executive control of it, as if the licence were, or were proposed to be, held by them jointly.

#### **Premises for which licences may be granted**

5.—(1) Without prejudice to Article 80, the premises in which the sale of intoxicating liquor is authorised by a licence shall be premises of one of the following kinds—

- (a) premises in which the business carried on under the licence is the business of selling intoxicating liquor by retail for consumption either in or off the premises;
- (b) premises in which the business carried on under the licence is the business of selling intoxicating liquor by retail for consumption off the premises;
- (c) an hotel;
- (d) a guest house;
- (e) a restaurant;
- (f) a conference centre;
- (g) a higher education institution;
- (h) a place of public entertainment;
- (i) a refreshment room in public transport premises;
- (j) a seamen's canteen.

(2) Regulations, made subject to affirmative resolution, may prescribe the conditions under which any business authorised by the licence may be carried on in premises of a kind mentioned in paragraph (1)(a) or (b).

(3) Subject to paragraph (5) and to Article 51(1)(b), a licence shall not authorise the sale of intoxicating liquor in premises of any kind mentioned in paragraph (1)(c) to (j),—

- (a) unless, subject to Article 17(3)—
  - (i) there is being carried on in those premises a business of the type normally carried on in premises of that kind; and
  - (ii) the sale of intoxicating liquor is ancillary to that business;
- (b) for consumption off the premises.

(4) A licence for premises other than an hotel shall be authority for the sale of intoxicating liquor only in the part or parts of the premises delineated in plans kept under Article 34(2) by the clerk of petty sessions for the petty sessions district in which the premises are situated as the part or parts of the premises in which such liquor is permitted to be sold.

(5) In relation to premises which are an hotel—

- (a) paragraph (3)(a) shall not apply where a note showing that the licence was granted—
  - (i) before 31st July 1902; or
  - (ii) between 30th July 1902 and 3rd May 1971 otherwise than under section 2(2) of the Licensing (Ireland) Act 1902 or section 9(a)(ii) of the Intoxicating Liquor Act (Northern Ireland) 1923; or
  - (iii) under Article 4(1) of the Licensing (Northern Ireland) Order 1978 or Article 12(1) of the Licensing (Northern Ireland) Order 1990 or Article 11(1) of this Order in lieu of an existing licence to which head (i) or (ii) applied,has been made on the licence and recorded in the register of licences in respect of the premises;
- (b) paragraph (3)(b) shall not prohibit or restrict the sale of intoxicating liquor for consumption off the premises, where—
  - (i) the purchaser is a resident or diner in the premises, or
  - (ii) a note such as is mentioned in sub-paragraph (a) has been made on the licence and recorded in the register of licences in respect of the premises.

(6) Subject to Article 17(3), where any person, being the holder of a licence for premises of a kind mentioned in paragraph (1)(c) to (i), himself or by his servant or agent, either sells intoxicating

liquor or makes it available for purchase in those premises in contravention of paragraph (3) he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale or to imprisonment for a term not exceeding 3 months or to both.

### **Premises for which licences shall not be granted**

6.—(1) The premises in which the sale of intoxicating liquor shall not be authorised by a licence shall be—

- (a) premises situated on a service area; and
- (b) premises in which the principal business carried on is the business of a garage or premises which form part of such premises.

(2) In this Article—

“service area” has the same meaning as in Article 2(2) of the Roads (Northern Ireland) Order 1993;

“garage”, in relation to a business, means—

- (a) the retailing of petrol or derv; or
- (b) the sale or maintenance of motor vehicles.

### *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.

### **Grant of licence conditional on alterations being made in premises**

**8.—**(1) A court which grants a licence may order that, within a period fixed by the order, the holder of the licence—

- (a) shall make such alterations in the licensed premises as may be specified in the order, being alterations which the court thinks necessary—
  - (i) to secure the proper conduct of the business carried on under the licence; or
  - (ii) to secure that no part of any room which is used for the sale or consumption of intoxicating liquor is concealed or screened from observation in such a manner as to obstruct proper supervision; and
- (b) shall deposit with the clerk of the court a plan of the premises showing the alterations so specified.

(2) Notice of any order made under paragraph (1) shall be served by the clerk of the court on the person whose name has been notified to the court as the owner of the premises.

(3) The period fixed by an order under paragraph (1) may be extended by order of a court of summary jurisdiction on the application of the holder of the licence.

(4) If the holder of the licence makes default in complying with an order under paragraph (1) he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding 6 months or to both.

### **Provisional grant of licences**

**9.—**(1) Where premises are about to be constructed, altered or extended or are in the course of construction, alteration or extension, an application may be made to a county court for the provisional grant of a licence for those premises.

- (2) An application for the provisional grant of a licence may be made by—
  - (a) the person who proposes to be the owner of the business to be carried on under the licence after it has been declared final under paragraph (7); or
  - (b) a housing authority.

(3) The procedure for applications for the provisional grant of licences is set out in Part I of Schedule 1 as modified by Part II of that Schedule.

- (4) Article 7 shall apply in relation to the provisional grant of licences as if—
  - (a) references to the grant of a licence were references to the provisional grant of a licence;

- (b) references to the premises for which a licence is sought were references to proposed premises;
- (c) the reference to the surrender of a subsisting licence before the licence is issued were a reference to its surrender then or before the licence is declared final;
- (d) where the application is made by a housing authority, paragraph (4)(b) were omitted.

(5) A licence which is provisionally granted shall not authorise the sale of intoxicating liquor until the grant of the licence is declared final.

(6) At any time before a licence which has been provisionally granted is declared final, a county court may consent to any modification of the plans deposited under Schedule 1 if, in its opinion, the premises, when completed in accordance with the modified plans, will be suitable to be licensed for the sale of intoxicating liquor by retail and, if it does so, shall require a copy of the modified plans to be deposited with the clerk of the court.

(7) Where a licence has been granted provisionally for any premises, a county court—

- (a) where the licence was granted to a person such as is mentioned in paragraph (2)(a), on the application of the holder of the licence, or
- (b) where the licence was granted to a housing authority, on the application of a person nominated by the authority who proposes to be the owner of the business to be carried on under the licence in the premises,

shall, subject to paragraph (9), declare the grant of the licence final, if it is satisfied—

- (i) that the premises have been completed in accordance with the plans deposited under Schedule 1 or in accordance with those plans with modifications consented to under paragraph (6), and
- (ii) that the applicant is a fit person to hold a licence.

(8) The procedure for applications by persons such as are mentioned in paragraph (7) to have the provisional grant of licences declared final is set out in Part III of Schedule 1.

(9) A county court shall not entertain an application made under paragraph (7) after the expiration of 2 years from the date on which the licence was granted provisionally, unless the applicant satisfies the court that there were reasonable grounds for the failure to complete the construction, alteration or extension of the premises within that period.

(10) Where the provisional grant of a licence is declared final the chief clerk shall note the declaration on the licence.

### **Preliminary approval of sites and disposal in certain cases**

**10.**—(1) A housing authority proposing to develop or re-develop any area of land may apply to the county court with respect to any site in that area for a declaration that the court approves that site as a site for licensed premises of a kind specified in the declaration.

(2) The provisions of Parts I and II of Schedule 3 shall have effect in connection with applications under paragraph (1), the approval of sites, the grant of licences for premises on approved sites and, where the sites are in a re-development area, the disposal of the sites or of premises erected on the sites; and the provisions as to expenses in Part III of that Schedule shall also have effect.

### **Grant of new licence in lieu of existing licence**

**11.**—(1) Where the holder of a licence which has been renewed under Article 17 (or which could have been so renewed if the renewal date had fallen between the date of the discontinuance of the principal business and the date when his application for a new licence comes before the county court) applies to a county court for the grant or provisional grant of a new licence in lieu of the existing

licence, and the court is satisfied that the premises for which the new licence is sought are, or will be,—

- (a) where the existing licence was granted—
  - (i) before 31st July 1902, or
  - (ii) between 30th July 1902 and 3rd May 1971 otherwise than under section 2(2) of the Licensing (Ireland) Act 1902 or section 9(a)(ii) of the Intoxicating Liquor Act (Northern Ireland) 1923, premises of an establishment allocated by a certificate under Article 13 of the Tourism (Northern Ireland) Order 1992 to the statutory category of tourist establishment mentioned in Article 12(1)(a) of that Order, or
- (b) where the existing licence is for premises to which Article 2(5)(a) applied—
  - (i) an hotel as defined by section 1(3) of the Intoxicating Liquor Act (Northern Ireland) 1923; and
  - (ii) premises of an establishment allocated by a certificate under Article 13 of the Tourism (Northern Ireland) Order 1992 to the statutory category of tourist establishment mentioned in Article 12(1)(b) or (c) of that Order, or
- (c) where the existing licence is for premises to which Article 2(5)(b) applied—
  - (i) without a public bar for the sale of intoxicating liquor; and
  - (ii) premises of an establishment allocated by a certificate under Article 13 of the Tourism (Northern Ireland) Order 1992 to the statutory category of tourist establishment mentioned in Article 12(1)(b) of that Order,

the court, if it grants the licence applied for, may order that a statement be noted on the licence and recorded in the register of licences to the effect that the licence is granted in lieu of an existing licence of that description.

(2) In this Article “principal business” means the business of an hotel or the business of providing accommodation for guests in premises such as are mentioned in Article 2(5)(a) or (b).

### **Effect on new licence of suspension of surrendered, or previous, licence**

**12.—**(1) Where a suspended licence is surrendered as mentioned in Article 7(4)(e)(ii) or 9(4)(c) the court which grants the new licence or declares the provisional grant of the new licence final may direct that the suspension shall be disregarded, except where the holder of the new licence was the holder of the surrendered licence.

(2) Where—

- (a) the surrendered licence is suspended and the suspension is not disregarded, or
- (b) a new licence is granted by virtue of Article 7(7)(b) by reason of a previous licence having been in force for the premises and the previous licence would be suspended if it were still in force,

the new licence shall be expressed not to come into force, or, as the case requires, shall be declared not to become final, until the expiration of the period of suspension.

(3) For the purpose of paragraph (1) a person shall be deemed to be the holder of a licence if he is one of several joint holders or if he is a director of a body corporate which is the holder.

### **Duration of new licences**

**13.—**(1) Subject to the succeeding provisions of this Article, a licence shall, unless suspended, remain in force from the date on which it is granted until—

- (a) the expiration of—
    - (i) the then current licensing period, or
    - (ii) such lesser period ending on 30th September as the court shall determine, or
  - (b) if it is granted within the 3 months immediately preceding the expiration of the then current licensing period, the expiration of—
    - (i) the next following licensing period, or
    - (ii) such lesser period ending on 30th September as the court shall determine.
- (2) Where, at the hearing of an application for the grant of a licence, any person appears before the court and opposes the grant, but the court grants the licence,—
- (a) until the expiry of the time for bringing an appeal against the grant and, if an appeal is brought, until the grant is confirmed or the appeal is abandoned—
    - (i) the licence granted shall not come into force, and
    - (ii) the licence, if any, which has been surrendered shall not cease to be in force;
  - (b) if on appeal the grant is confirmed or if the appeal is abandoned, for the purpose of determining the period for which the licence is to be in force, the date when the appeal is disposed of shall be substituted for the date on which the licence was granted or for any other date earlier than the first-mentioned date on which the licence is expressed under Article 12(2) to come into force, and the chief clerk shall (if necessary) amend the licence accordingly;
  - (c) if on appeal the grant is not confirmed, the licence, if any, which has been surrendered 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.
- (3) Where a licence granted provisionally is at any time declared final, paragraphs (1) and (2) shall apply as if the licence were granted at that time.
- (4) Paragraph (1) shall not prejudice the operation of paragraph (2)(c) and Articles 20, 25(b), 26(7) and 28, under which a licence may, or may be deemed to, continue in force after the time when it would otherwise expire.
- (5) Where, on granting a licence, a county court gives a direction under Article 7(13) and the holder of the licence appeals against that direction, the direction shall not take effect until the appeal is determined or abandoned.

### *Renewal of licences*

#### **Renewal of licences**

- 14.**—(1) An application for the renewal of a licence shall be made to a court of summary jurisdiction except where the licence is renewed by the clerk of petty sessions under this Article.
- (2) The procedure for applications for the renewal of licences is set out in Part I of Schedule 4.
- (3) Subject to paragraph (4), where notice of an application for the renewal of a licence otherwise than under Article 16 or 23 has been served upon the clerk of petty sessions, he may renew the licence as if the application had been made to him and may do so in the absence of the applicant.
- (4) Where—
- (a) a notice of application is in respect of the renewal of a licence which has been in force for a period determined by the court under Article 13(1)(a)(ii) or (b)(ii) or Article 21 (1)(b)(ii) or (c)(ii), or

- (b) a notice of objection has been served on the clerk and has not been withdrawn, or
- (c) the licensed premises have been altered since the last previous renewal of the licence (or, where the renewal applied for is the first renewal of the licence, since the licence was granted), or
- (d) the application for renewal is in respect of premises of a kind mentioned in Article 5(1)(a) for which the applicant has also applied to the court for—
  - (i) a direction specifying that on Sunday there shall be no permitted hours on the premises, or
  - (ii) the cancellation of such a direction, or
- (e) the application for renewal is made by virtue of Article 18 or with respect to a licence to which Article 77(4) or Article 80(3) applies, or
- (f) the application for renewal is in respect of licensed premises for which the applicant has also applied to the court for the variation of a direction specifying the number of gaming machines which may be made available on the licensed premises or, where such a direction has not been given in respect of the licensed premises, for which the subdivisional commander of the police division in which the licensed premises are situated has applied for such a direction, or
- (g) the clerk is of the opinion, for any other reason, that an application for the renewal of the licence should be made to the court,

the clerk shall require the application to be made to the court and shall notify the applicant and the objectors, if any, of the requirement and of the time and place of the hearing.

- (5) Where a licence is renewed, the clerk shall note the renewal on the licence.

### **Renewal of licences by a court**

**15.—(1)** On an application for the renewal of a licence to a court of summary jurisdiction, the court shall hear the objections, if any, made under Part I of Schedule 4.

- (2) A court shall refuse an application for the renewal of a licence unless it is satisfied—
  - (a) subject to paragraph (3)(a), that the procedure relating to the application set out in Part I of Schedule 4 has been complied with; and
  - (b) that the applicant is a fit person to hold a licence; and
  - (c) subject to Article 18(3),—
    - (i) that the kind of premises specified in the application is that for which the licence was granted and the premises are of the kind so specified; and
    - (ii) subject to paragraph (3)(b), that the premises are suitable to be licensed for the sale of intoxicating liquor by retail; and
  - (d) that, having regard to the manner in which the business carried on in the premises under the licence has been conducted since the last previous renewal of the licence (or, where the renewal applied for is the first renewal of the licence, since the licence was granted), it is likely that, if the licence is renewed, the business will be conducted in a peaceable and orderly manner; and
  - (e) subject to Article 18(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 5(1)(c) to (j) other than an hotel in respect of which the note and record mentioned in Article 5(5)(a) have been made, the business to which the sale of intoxicating liquor under the licence is ancillary,

- has not been discontinued; and
- (f) where the licence is in respect of a guest house or a place of public entertainment, that the conditions attached to the licence by the court under Article 7(11) or, as the case may be, (12) have been observed.
- (3) A court may renew a licence notwithstanding—
- (a) that the procedure relating to the application set out in Part I of Schedule 4 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 for the sale of intoxicating liquor by retail, if they will be made suitable in consequence of an order under paragraph (7).
- (4) For the purposes of paragraph (2)(e)(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) A court which renews a licence in respect of premises of a kind mentioned in Article 5(1)(a), on the application of the holder of the licence—
- (a) where a direction has not been given under Article 7(10), shall give such a direction; or
- (b) shall cancel a direction given under sub-paragraph (a) or Article 7(10).
- (6) A court which renews a licence for any premises which are licensed premises to which regulations under Article 108(1)(b) of the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 apply may—
- (a) where a direction has not been given under Article 7(13) in respect of the licensed premises, on an application by the sub-divisional commander of the police sub-division in which the licensed premises are situated, give such a direction; or
- (b) on an application by the sub-divisional commander mentioned in sub-paragraph (a), vary a direction given under sub-paragraph (a) or Article 7(13); or
- (c) on an application by the holder of the licence, vary or cancel a direction given under sub-paragraph (a) or Article 7(13).
- (7) Article 8 shall apply in relation to the renewal of a licence as if—
- (a) references to the court granting a licence were references to a court renewing a licence; and
- (b) in paragraph (2) the reference to the person whose name has been notified to the court as the owner of the premises were a reference to the person whose name is recorded in the register of licences as the owner of the premises.
- (8) Where the court refuses an application for the renewal of a licence or for the variation or cancellation of a direction under paragraph (6) it shall specify in its order the reasons for its refusal.
- (9) Where the court gives or cancels a direction under paragraph (5) or (6) or varies a direction under paragraph (6) the clerk of petty sessions shall note the direction, cancellation or variation, as the case may require, on the licence.

#### **Power to renew licences out of time**

**16.** Where the holder of a licence which falls to expire on the 30th September fails to serve due notice of an application for its renewal before the renewal date a court of summary jurisdiction, upon application made in compliance with the procedure set out in Part I of Schedule 4 as modified by Part II of that Schedule not later than the end of the period of 12 months from the date on which the licence expires, may renew the licence—

- (a) if it is satisfied that there was good reason for the failure; or
- (b) upon the payment of such additional fee as may be fixed by order under section 116 of the Judicature (Northern Ireland) Act 1978 for each month or part of a month between

the renewal date and the time when application is made under this Article for the renewal of the licence.

### **Renewal of licences in respect of certain premises**

17.—(1) Subject to paragraph (2), where a licence was granted for premises in which a principal business was carried on and an application for the renewal of the licence is made to a court of summary jurisdiction, the court, if satisfied that the principal business has been discontinued in consequence of damage caused to premises and an application has been, or will be made under the Criminal Injuries to Property (Compensation) Act (Northern Ireland) 1971 or the Criminal Damage (Compensation) (Northern Ireland) Order 1977 for compensation for that damage, and that there is a likelihood that, within a reasonable period, either—

- (a) the principal business will be resumed in the licensed premises, or
- (b) an application will be made to a county court for a new licence in lieu of the existing licence to enable the business to be carried on in other premises (whether on the same site or not), or
- (c) an application will be made to the county court for a new licence and the licence sought to be renewed is proposed to be surrendered as a subsisting licence,

may grant the renewal for a period of 12 months notwithstanding that—

- (i) the licensed premises have ceased to exist; or
- (ii) the principal business has been discontinued; or
- (iii) the premises are no longer premises of an establishment allocated by a certificate under Article 13 of the Tourism (Northern Ireland) Order 1992 to a statutory category of tourist establishment or, as the case may be, no longer provide accommodation approved by the Northern Ireland Tourist Board.

(2) Where an application for the renewal of the licence has been made on 2 previous occasions in respect of any premises the court shall not grant the renewal under paragraph (1) unless the applicant—

- (a) satisfies the court that there were reasonable grounds for the failure either to resume the principal business in the licensed premises or to make an application for a new licence; and
- (b) produces evidence to the court that he is taking the necessary steps to resume that business or make that application within the next 12 months.

(3) Where in respect of any period of 12 months a licence is renewed under this Article, Articles 5(3)(a), 44 and 45 and Article 5(6) in so far as it relates to Article 5(3)(a) shall not apply to the conduct of the licensed business in the licensed premises during that period.

(4) In this Article—

“principal business” means the business of an hotel or the business of providing accommodation for guests in premises such as are mentioned in Article 2(5)(a) or (b);

“licensed business” means the business of selling intoxicating liquor in premises in which a principal business is carried on.

### **Renewal of licence pending grant of new licence**

18.—(1) Where—

- (a) the premises specified in a licence are premises such as are mentioned in sub-paragraph (a) of paragraph 2 of Schedule 2 and sub-paragraph (b) of that paragraph (where applicable) applies, and

(b) an order is not in force under Article 29 authorising the temporary continuance in other premises of the business authorised to be carried on under the licence, the holder may, for the purpose of keeping the licence in force in order that it may be surrendered as a subsisting licence, apply under Article 14 for a renewal of the licence, and the court, if satisfied that it will be surrendered within a reasonable period, may renew the licence.

(2) Where the holder of a licence has died, his personal representative may apply under paragraph (1) for the renewal of the licence, and the court may renew the licence in his name.

(3) Article 15(2) shall apply for the purposes of an application for renewal under paragraph (1) as if sub-paragraphs (c) and (e) were omitted.

### **Renewal of suspended licences**

19. The renewal of a suspended licence shall not affect the suspension.

### **Continuance of licence pending determination of appeal**

20. Where a court refuses to renew a licence and the holder of the licence appeals, the licence shall, unless suspended, continue in force until the appeal is determined or abandoned.

### **Duration of renewed licence**

21.—(1) Subject to paragraph (2) and Article 17(1), on the renewal of a licence it shall, unless suspended, remain in force until—

- (a) if it is renewed by the clerk of petty sessions during the month of September immediately preceding the expiration of the then current licensing period, the expiration of the next following licensing period; or
- (b) if it is renewed by a court within the 3 months immediately preceding the expiration of the then current licensing period, the expiration of—
  - (i) the next following licensing period, or
  - (ii) such lesser period ending on 30th September as the court shall determine; or
- (c) if it is renewed by a court in any other case, the expiration of—
  - (i) the then current licensing period, or
  - (ii) such lesser period ending on 30th September as the court shall determine.

(2) Paragraph (1) shall not prejudice the operation of Articles 13(2)(c), 20, 25(b), 26(7) and 28, under which a licence may, or may be deemed to, continue in force after the time when it would otherwise expire.

(3) Where, on renewing a licence, a court of summary jurisdiction gives a direction under Article 15(5)(a) or varies or cancels any direction given under Article 7(13) or 15(5)(a) and the holder of the licence appeals against the direction, variation or cancellation, as the case may require, the direction, variation or cancellation shall not take effect until the appeal is determined or abandoned.

### *Transfer of licences*

### **Transfer of licences**

22.—(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.

(5) On an application for the transfer of a licence the court shall hear the objections, if any, made under Schedule 5.

- (6) A court shall refuse an application for the transfer of a licence unless it is satisfied—
- (a) subject to paragraph (7), that the procedure relating to the application set out in Schedule 5 has been complied with; and
  - (b) that the applicant is a fit person to hold a licence; and
  - (c) subject to paragraph (8), 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 5(1)(c) to (j) other than an hotel in respect of which the note and record mentioned in Article 5(5)(a) have been made, the business to which the sale of intoxicating liquor under the licence is ancillary, has not been discontinued.

(7) A court may transfer a licence notwithstanding that the procedure relating to the application set out in Schedule 5 has not been complied with if, having regard to the circumstances, it is reasonable to do so.

(8) Paragraph (6)(c) shall not apply to the transfer of a licence which is provisionally granted.

(9) For the purposes of paragraph (6)(c)(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.

(10) Where the licence is transferred, the clerk of petty sessions shall note the transfer on the licence.

(11) 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**

**23.**—(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 period of 12 months from 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**

24.—(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**

25. 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.

### *Temporary continuance of business in certain circumstances*

### **Protection orders**

26.—(1) A person who proposes to apply for the transfer of a licence or for the concurrent transfer and renewal of a licence may apply to a court of summary jurisdiction for a protection order authorising him to carry on business under the licence until an application for the transfer, or transfer and renewal, of the licence can be brought before a court.

(2) Where the holder of a licence dies and he has no personal representative or his personal representative is unwilling or unable to act, a person who is entitled in consequence of the holder's death to a beneficial interest in the business may apply to a court of summary jurisdiction for a protection order.

(3) Where the holder of a licence has become incapable through illness or other infirmity of carrying on the business authorised by the licence, a person who proposes to carry on the business on his behalf may apply to a court of summary jurisdiction for a protection order.

(4) A court of summary jurisdiction may, on an application made in compliance with the procedure set out in Schedule 6, make the protection order if it is satisfied that the applicant is, or that there are reasonable grounds for believing that he may be, a person or one of several persons to whom it could transfer the licence or a person such as is mentioned in paragraph (2) or (3).

(5) The authority conferred by a protection order in respect of any premises shall be the same as that conferred by the licence in force (or last in force) for those premises, and, while the order is in force, the provisions of this Order (other than those relating to the renewal or transfer of licences and the foregoing provisions of this Article) shall apply as if the person to whom the order is granted were the holder of that licence.

(6) Without prejudice to the generality of paragraph (5), a protection order may be suspended as if it were a licence and shall be deemed to be suspended during any period when the licence is suspended.

(7) A licence in connection with which a protection order is in force shall be deemed to continue in force for such period as the protection order remains in force.

**Supplementary provisions relating to protection orders**

27.—(1) A protection order shall, unless suspended, remain in force—

- (a) for a period of 6 months or such shorter period as may be specified in the order; and
- (b) where an application for the transfer of the licence is made but not finally disposed of within that period, until the time when the application (including any appeal) is finally disposed of or, where the transfer is not granted, until the expiration of a period of 8 weeks after that time;

but, notwithstanding the foregoing provisions of this paragraph, it shall cease to have effect—

- (i) on the transfer of the licence; or
- (ii) on the making of a further protection order under paragraph (3); or
- (iii) on its revocation by a court of summary jurisdiction on application by either the holder of the licence or the holder of the protection order; or
- (iv) on the surrender of the licence.

(2) Where a protection order has been made on an application under Article 26(3), a court of summary jurisdiction may, on application by the person in whose favour the order was made, make such further protection order or orders as it thinks fit.

(3) A protection order may be made to supersede a previous protection order, if the court is satisfied that the person in whose favour the previous order was made—

- (a) will be unable to apply for a transfer before the expiration of that order; or
- (b) consents to that order being superseded; or
- (c) no longer proposes to apply for a transfer of the licence or is not qualified to do so; or
- (d) is unable to carry on business under that order.

(4) Where the court makes a protection order the clerk of petty sessions shall note the order on the licence.

**Temporary continuance of business on death, bankruptcy, etc.**

28.—(1) Where at any time—

- (a) the holder of a licence dies or is adjudged bankrupt, or a composition or scheme proposed by him is approved under Chapter II of Part VIII of the Insolvency (Northern Ireland) Order 1989, or a trustee is appointed under a deed of arrangement under Chapter I of that Part VIII for the benefit of his creditors, or a receiver of his property or a committee or guardian is appointed with power to manage the business carried on under the licence; or
- (b) in the case of a body corporate which is the holder of a licence, a winding-up is commenced or a receiver is appointed as aforesaid;

the personal representative or, as the case requires, the person who is for the time being trustee in bankruptcy, supervisor of the composition or scheme, trustee under the deed, receiver, committee, guardian or liquidator shall be in the same position as regards carrying on business under the licence as if he were the holder of that licence.

(2) Where the holder of a licence dies and he has no personal representative or his personal representative is unwilling or unable to act, the licence shall, unless suspended, continue in force for the benefit of any person entitled in consequence of his death to a beneficial interest in the business until—

- (a) the expiration of a period of 2 months from the date of his death, or
- (b) a protection order is made, or

(c) paragraph (1) becomes applicable by reason of the appointment of a personal representative,

whichever first occurs.

(3) The authority conferred on any person by virtue of paragraph (1) or (2) to carry on a business in licensed premises shall be suspended on the expiration of the period of 2 weeks from the date when he commenced to carry on the business unless during that period he has served notice that he is carrying on the business by virtue of that paragraph (and, if he is carrying it on by virtue of paragraph (1), the capacity in which he is doing so) upon—

(a) the clerk of petty sessions for the petty sessions district, and

(b) the sub-divisional commander of the police sub-division,

in which the premises are situated; but the authority, if so suspended, shall revive upon the service of such a notice.

### **Temporary continuance of business in other premises**

**29.**—(1) Where by reason of any circumstance such as is mentioned in paragraph 2(a)(i) or (iii) to (vi) of Schedule 2, the holder of a licence which is in force for any premises (in this Article referred to as “the original premises”) is unable to carry on business under the licence in the premises, a court of summary jurisdiction may, on an application made by him in compliance with the procedure set out in Schedule 6, make an order authorising the continuance of the business in—

(a) temporary premises erected or to be erected wholly or partly within the curtilage, or on the site, of the original premises; or

(b) other premises in the vicinity of the original premises or their site,

for such period, not exceeding 6 months, as the court thinks fit.

(2) A court shall not make an order under paragraph (1) unless it is satisfied—

(a) that the premises in which the business is proposed to be carried on are adequate for the conduct of the business and will continue to be adequate during the period of the order; and

(b) that the applicant either—

(i) proposes to resume business under the licence in the original premises within a reasonable period (if Article 32 does not apply), or

(ii) has made an application for a new licence for those or other premises, or proposes to do so within a reasonable period.

(3) An application under this Article shall be made to a court of summary jurisdiction for the petty sessions district in which the premises in which the business is sought to be continued are situated.

(4) Where an order has been made under paragraph (1), a court of summary jurisdiction may, on application by the holder of the licence, make such further order or orders under that paragraph as it thinks fit.

(5) The temporary continuance of a business under this Article shall cease—

(a) at the end of the period specified in an order or a further order made under paragraph (1), or

(b) when the holder of the licence resumes the business in the original premises or premises for which a new licence is granted,

whichever first occurs.

(6) Where under this Article a court authorises the temporary continuance of a business in any premises—

(a) those premises shall be deemed to be the licensed premises;

- (b) Article 15(2) shall apply in relation to the renewal of the licence as if sub-paragraph (c) (ii) were omitted.

### *Occasional licences*

#### **Occasional licences**

**30.**—(1) A court of summary jurisdiction sitting in the county court division in which the place for which the occasional licence is sought is situated, or any such court sitting in an adjoining county court division for a petty sessions district which includes that place, or a clerk of petty sessions acting under paragraph (3), may, on an application made, in compliance with the procedure set out in Schedule 7, by a person who is the holder of a licence for premises to which this Article applies, grant an occasional licence authorising that person to sell intoxicating liquor by retail—

- (a) subject to paragraph (2), at such place, other than those premises, and
- (b) during such period not exceeding 6 days at any one time, and
- (c) between such hours, being the hours—
  - (i) on week-days between half past 11 in the morning and 1 in the morning of the day next following, or
  - (ii) on Sunday, not being 31st December, between half past 12 in the afternoon and 12 in the evening, or
  - (iii) on Sunday, being 31st December, between half past 12 in the afternoon and 1 in the morning of the day next following,
 as may be specified in the occasional licence.

(2) Not more than 13 occasional licences shall be granted on one application.

(3) Subject to paragraph (4), where notice of an application for an occasional licence has been served upon the clerk of petty sessions, he may grant the occasional licence as if the application had been made to him and may do so in the absence of the applicant.

(4) Where—

- (a) a notice of objection has been served on the clerk and has not been withdrawn, or
- (b) the clerk is of the opinion, for any other reason, that an application for the grant of an occasional licence should be made to the court,

the clerk shall require the application to be made to the court and shall notify the applicant and the objectors, if any, of the requirement and of the time and place of the hearing.

(5) An occasional licence shall not authorise—

- (a) the sale of intoxicating liquor otherwise than—
  - (i) as ancillary to a function to which this sub-paragraph applies which is to be held at the place and during the period and hours specified in the licence; and
  - (ii) where the applicant is the holder of a licence for a restaurant, as ancillary to a main table meal; and
- (b) the sale of intoxicating liquor for consumption off the place specified in the licence.

(6) The functions to which sub-paragraph (5)(a) applies are functions of an occasional nature which are organised by any body established for social, charitable or benevolent purposes or for furthering the common interests of persons associated with any trade, profession, educational or cultural activity, game or sport.

(7) The days mentioned in paragraph (1)(b) may be in the same week or consecutive weeks, but nothing in this Article shall permit an occasional licence to authorise the sale of intoxicating liquor on Christmas Day, Easter Day or Good Friday.

(8) If the holder of an occasional licence or any servant or agent of his sells intoxicating liquor in contravention of paragraph (5), the holder of the licence shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(9) Where an occasional licence has been granted in connection with a function at any place, a constable may at any time during the period of the function enter that place for the purpose of ascertaining whether there has been any contravention of any provision of this Order, and if any person, himself or by his servant or agent or any other person acting with his knowledge or consent, fails or unreasonably delays to admit a constable, knowing him to be such, demanding to enter in pursuance of this paragraph, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(10) In any proceedings for an offence under paragraph (9) the burden of proving that any delay in admittance was reasonable shall lie upon the defendant.

(11) An occasional licence granted in connection with a function shall, at any time during the period of the function when intoxicating liquor is sold or made available for purchase at the place specified in the licence, forthwith be produced by the person who is in charge of the sale of intoxicating liquor there for examination by a constable at his request, and if it is not so produced without reasonable excuse the holder of the licence and that person shall each be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(12) Where upon complaint made under Part VIII of the Magistrates' Courts (Northern Ireland) Order 1981, a court of summary jurisdiction is satisfied that functions held at the place specified in an occasional licence have been conducted so as to cause undue inconvenience to persons residing in the vicinity of that place, that court may—

- (a) revoke any other occasional licences granted in respect of that place; or
- (b) order that the place specified in the licence shall not be a place for which an occasional licence may be granted; or
- (c) make any licences mentioned in sub-paragraph (a) subject to such terms and conditions as the court thinks fit.

(13) In this Article “place” includes “premises”.

(14) The premises to which this Article applies are—

- (a) premises of a kind mentioned in Article 5(1)(a);
- (b) an hotel;
- (c) a restaurant.

#### *Structure, etc., of licensed premises*

#### **Consent required for certain alterations to premises**

**31.—**(1) An alteration shall not be made to premises for which a licence is in force if the alteration—

- (a) gives increased facilities for drinking in a public or common part of the premises; or
- (b) adds to the premises a public or common part in which intoxicating liquor is sold, or substitutes one such part for another; or
- (c) conceals from observation a public or common part of the premises in which intoxicating liquor is sold; or

(d) affects the means of passage between the public part of the premises where intoxicating liquor is sold and the remainder of the premises or any road or other public place,

unless either—

- (i) an application under this Article has been made by the holder of the licence to a county court and the court has made an order consenting to the alteration; or
- (ii) the alteration is required by order of some lawful authority and, before the alteration is made, notice of the requirement is served by the holder of the licence on the clerk of petty sessions for the petty sessions district in which the premises are situated.

(2) The procedure for applications under paragraph (1)(i) is set out in Part I of Schedule 8, and Part II of that Schedule shall have effect in relation to notices under paragraph (1)(ii).

(3) If any alteration such as is mentioned in paragraph (1) is made to premises otherwise than in accordance with an order of the county court or an order of some lawful authority, a court of summary jurisdiction may order the holder of the licence to restore, as far as is practicable, the premises to their original condition within a period fixed by the order.

(4) The period fixed by an order under paragraph (3) may be extended by order of a court of summary jurisdiction on the application of the holder of the licence.

(5) If paragraph (1)(ii) is not complied with, the holder of the licence shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(6) If the holder of the licence makes default in complying with an order under paragraph (3), he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding 6 months or to both.

### **New licence required on reconstruction of premises**

**32.**—(1) Subject to paragraphs (2) and (3), where licensed premises (in this Article referred to as “the original premises”) are wholly or substantially destroyed or demolished and are, or are to be, reconstructed (with or without any extension), the licence for the original premises shall, if duly renewed and not suspended, continue in force to the extent necessary—

- (a) to enable an order to be made under Article 29(1) for the temporary continuance of the business in other (including temporary) premises; and
- (b) to enable the licence to be surrendered as a subsisting licence in consideration of the grant of a new licence;

but shall not be authority for the sale of intoxicating liquor in the reconstructed premises.

(2) Paragraph (1) shall not apply in the case of an hotel where the destruction, demolition or reconstruction does not affect any public or common part of the premises in which intoxicating liquor is sold.

(3) Paragraph (1) shall not apply to the demolition and reconstruction of part of any premises solely in the course of an alteration which is consented to or required as mentioned in Article 31(1) or is ordered to be made as mentioned in Article 31(3).

*Form, register and proof of licences, etc.*

### **Form of licence**

**33.** A licence shall be in such form as may be prescribed by regulations and shall specify—

- (a) the name and address of the holder of the licence;
- (b) the address of the premises for which it is granted;

- (c) the kind of premises for which it is granted;
- (d) the name and address of the owner of the premises;
- (e) such other matters as may be prescribed by regulations.

### **Register of licences**

**34.**—(1) Each clerk of petty sessions shall keep a register, in such form as may be prescribed by regulations, of licences granted for premises in the petty sessions district for which he acts as clerk and shall record therein in respect of each licence—

- (a) the matters which under Article 33 are required to be specified in the licence;
- (b) particulars of any renewal or transfer, or the surrender, of the licence;
- (c) particulars of any condition imposed under Article 7(12) or any direction given under Article 7(10) or 15(5)(a) and any cancellation of any such direction;
- (d) particulars of any direction given under Article 7(13) or 15(6) and particulars of any variation or cancellation of any such direction;
- (e) particulars of any protection order and of any notice served under Article 28(3);
- (f) particulars of any order made under Article 8(1) or (3), 31 (1), (3) or (4), 43,44 or 48 in respect of premises specified in the licence and of any requirement in respect of those premises notice of which is served on him under Article 31(1)(ii);
- (g) particulars of any children's certificates granted in respect of premises specified in the licence;
- (h) particulars of any conviction of the licence holder of any offence such as is mentioned in Article 75(1) and of any order made in consequence of the conviction;
- (i) particulars of any matters such as are mentioned in paragraph O)(d);
- (j) such other matters as may be prescribed by regulations.

(2) Each clerk of petty sessions shall also keep the plans received by him under paragraph (3), Article 8(1)(b), paragraph 4 of Schedule 6 and paragraph 8 of Schedule 8, and those plans shall be deemed to be matters which are required to be, and have been, recorded in the register under paragraph (1).

(3) Where a court—

- (a) on the application of any person grants or provisionally grants a licence, or declares the provisional grant of a licence to be final, or consents to a modification of plans under Article 9(6), or makes an order under Article 31(1)(i), 43,44 or 48, or
- (b) grants a children's certificate, or
- (c) makes an order under Article 8, or
- (d) confirms, reverses or varies any decision or determination of any other court relating to a licence or the premises for which a licence is granted, or
- (e) convicts the holder of a licence of any offence such as is mentioned in Article 75(1),

the court, where it is not a court of summary jurisdiction for the petty sessions district in which the premises specified in the licence are situated, shall cause a copy of its order, and any plan which was attached to, or received in connection with, the application or order, and, where the order relates to the grant or provisional grant of a licence, particulars of any matters entered on the licence under Article 33, to be sent to the clerk of petty sessions for that district; and, where a licence is surrendered, the court shall cause notice of the surrender to be sent to the clerk of petty sessions who keeps the register in which particulars of that licence are recorded.

(4) A clerk of petty sessions may make such alterations in the register as are necessary to ensure that the matters recorded therein in respect of any licence are accurate.

### **Inspection of register**

**35.** A register of licences may be inspected and copies of all or any part of any entry in the register may be taken at all reasonable hours.

### **Returns to Department**

**36.** The clerk of petty sessions for any petty sessions district, in respect of each such period as may be specified by the Department, shall send to the Department a statement showing the number of premises of each of the kinds mentioned in Article 5 having a current licence in that district and containing such other information as the Department may require.

### **Register of licences to be evidence**

**37.—(1)** A register of licences shall be received in evidence of the matters required by or under this Order to be recorded in it, and any document purporting to be certified by a clerk of petty sessions to be a true copy of an entry in the register of licences kept by him shall be received in evidence of any such matters contained in the entry.

(2) On an application for the grant, provisional grant, renewal or transfer of a licence or for a protection order, the court shall have regard to the entries, if any, in the register of licences relating to the person by whom, or the premises in respect of which, the application is made.

### **Proof, etc., of licence**

**38.—(1)** A document purporting to be a licence and to be signed by the clerk of the court by which the licence was granted shall be received in evidence.

(2) A document which has been issued by the clerk of petty sessions for the petty sessions district in which the premises for which a licence was granted are situated and certified by him to contain a true copy of the particulars recorded in the register of licences in respect of that licence shall be treated for the purposes of this Order as the licence.

(3) The clerk of petty sessions may issue a document under paragraph (2) where he is satisfied that the licence has been lost or destroyed.

### *Provisions as to certain acquisitions of licensed premises*

#### **Provisions as to licences where premises are acquired under statutory powers**

**39.** A vesting order made in exercise of powers under any statutory provision to acquire land compulsorily does not operate, where the land being acquired includes an estate in premises for which a licence is in force, to vest that licence, or a right to apply for the transfer of that licence, in the acquiring authority.

#### **Temporary occupation of licensed premises for purpose of carrying on business**

**40.—(1)** Where an estate in premises for which a licence is in force is acquired (whether by agreement or otherwise) by an authority who have powers under any statutory provision to acquire land compulsorily, the authority, without prejudice to their powers under any statutory provision other than this Article, may, for the purpose of enabling the holder of the licence to carry on in those premises business under the licence or any other business to which that business is ancillary until

actual possession of the premises is required by the authority, grant to the holder of the licence a right to occupy the premises upon such terms and subject to such conditions as the authority may determine and such right to occupy may be granted so as to operate retrospectively from the date of the acquisition of the premises.

(2) Until a right to occupy the premises is granted under paragraph (1) by the acquiring authority or, where the acquiring authority do not propose to grant any such right, until such date as that authority may determine, the holder of the licence shall be deemed for the purposes of Article 4(3) to have retained the estate which he held in those premises immediately before the acquisition by the authority.

(3) The expiration of any right to occupy granted under paragraph (1) or of any estate deemed to have been retained under paragraph (2) shall not be treated as an expiration of a tenancy for the purpose of paragraph 2(a)(ii) of Schedule 2.

### PART III PERMITTED HOURS

#### **Prohibition of sale, etc., of intoxicating liquor outside permitted hours**

**41.**—(1) Except as permitted by or under this Order, a person shall not—

- (a) himself or by his servant or agent—
  - (i) sell intoxicating liquor in licensed premises, or
  - (ii) permit the consumption of intoxicating liquor in licensed premises, or
- (b) purchase intoxicating liquor in licensed premises, or
- (c) consume intoxicating liquor in licensed premises, or
- (d) take intoxicating liquor from licensed premises,

except during the permitted hours.

(2) Any person who contravenes this Article shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(3) This Article shall not apply to licensed premises such as are mentioned in Article 53(1) at an international airport.

#### *The permitted hours*

#### **General permitted hours**

**42.**—(1) Subject to the succeeding provisions of this Part, the permitted hours for premises of a kind mentioned in Article 5(1), except premises of a kind mentioned in Article 5(1)(b) or a place of public entertainment, are the hours—

- (a) on week-days, other than Good Friday or Christmas Day, from half past 11 in the morning to 11 in the evening; and
- (b) on Good Friday from 5 in the afternoon to 11 in the evening; and
- (c) except in the case of premises of a kind mentioned in Article 5(1)(a) with respect to which a direction under Article 7(10) or 15(5)(a) is in force, on Sunday or Christmas Day from half past 12 in the afternoon to 10 in the evening.

(2) The permitted hours for premises of a kind mentioned in Article 5(1)(b) are the hours—

- (a) on week-days, other than Christmas Day, from 8 in the morning to 11 in the evening; and
- (b) on Sunday, not being Christmas Day or Easter Day, from 10 in the morning to 10 in the evening.

(3) The permitted hours for a place of public entertainment are that part of the hours mentioned in paragraph (1)(a) and (b) and, in the case of a theatre, paragraph (1)(c) which comprises—

- (a) the period of an entertainment; and
- (b) periods, not exceeding 30 minutes in each case, which immediately precede the commencement and immediately succeed the termination of an entertainment.

#### **Alternative permitted hours for off-sales**

**43.**—(1) In respect of premises of a kind mentioned in Article 5(1)(a),—

- (a) a county court which grants a licence or declares a licence provisionally granted to be final, on the application of the person applying for the grant or declaration, or
- (b) a court of summary jurisdiction, at any time, upon the application of the holder of the licence for those premises made in compliance with the procedure set out in Schedule 9,

may, by order, direct that the permitted hours for a part of the premises for which the court imposes a condition under paragraph (2) shall be the hours mentioned in Article 42(2).

(2) A court shall not make an order under paragraph (1) unless it is satisfied—

- (a) that a specified part of the premises is structurally adapted for the sale of intoxicating liquor for consumption off the premises, and
- (b) that the specified part is not connected by any internal means of passage open to customers with a part of the premises used for the sale of intoxicating liquor for consumption in the premises,

and the court may insert in the licence a condition that the specified part shall not be used for the sale of intoxicating liquor for consumption in the premises.

(3) An order under paragraph (1) and the condition, if any, inserted under paragraph (2) may be revoked by a court of summary jurisdiction—

- (a) on the application of the holder of the licence; or
- (b) where, upon complaint made under Part VIII of the Magistrates' Courts (Northern Ireland) Order 1981, the court is not satisfied, in a case where the order was made under paragraph (1), that the condition mentioned in paragraph (2) has been, and the requirements of sub-paragraphs (a) and (b) of that paragraph have continued to be, complied with.

#### **Orders for additional permitted hours**

**44.**—(1) Subject to Article 17(3), where part or parts of premises, which are or include premises to which this Article applies, are structurally adapted and used, or intended to be used, for the purpose of habitually providing, for the accommodation of persons frequenting it, such entertainment or refreshment as is mentioned in paragraph (2)(i), (ii) or (iii) and the sale of intoxicating liquor is ancillary to that entertainment or refreshment—

- (a) a county court which grants a licence or declares a licence provisionally granted to be final, on the application of the person applying for the grant or declaration, or
- (b) a court of summary jurisdiction, at any time, upon the application of the holder of the licence for those premises made in compliance with the procedure set out in Schedule 9,

may make an order under this paragraph.

(2) An order under paragraph (1) may direct that, on such days as may be specified in the order, the hours—

- (a) on week-days from 11 in the evening to 1 in the morning of the day next following, and
- (b) on Sunday, not being 31st December, from 10 in the evening to 12 in the evening, and
- (c) on Sunday, being 31st December, from 10 in the evening to 1 in the morning of the day next following,

shall, in addition to the hours mentioned in Article 42(1), be included in the permitted hours for any such part or parts of the premises specified in the order for the purposes of the sale, before the provision of—

- (i) musical or other entertainment; or
- (ii) substantial refreshment; or
- (iii) both such entertainment and refreshment;

has ended, of intoxicating liquor for consumption on any such part or parts of the premises, and the consumption of such liquor.

(3) A court shall not make an order under paragraph (1) unless it is satisfied that—

- (a) the business will be conducted during the hours mentioned in paragraph (2) and any period immediately following their termination in such a manner as not to cause undue inconvenience to persons residing in the vicinity of the premises; and
- (b) the hours mentioned in paragraph (2) will not cause undue inconvenience to persons residing in the vicinity of the premises.

(4) An order under paragraph (1) may be revoked by a court of summary jurisdiction on the application of the holder of the licence.

(5) Where, upon complaint made under Part VIII of the Magistrates' Courts (Northern Ireland) Order 1981, a court of summary jurisdiction is satisfied—

- (a) that the business carried on in premises to which an order under paragraph (1) applies is being conducted during the hours mentioned in paragraph (2) or any period immediately following their termination in such a manner as to cause undue inconvenience to persons residing in the vicinity of the premises; or
- (b) that such hours are causing undue inconvenience to persons residing in the vicinity of the premises; or
- (c) in the case of a complaint made by the sub-divisional commander of the police sub-division in which the premises are situated, that the specified part or parts of the premises are not being used for the purpose of habitually providing entertainment or substantial refreshment or both entertainment and substantial refreshment, as the case may require,

the court may—

- (i) revoke the order; or
- (ii) modify the order or, in relation to the order, the hours mentioned in paragraph (2); or
- (iii) make the continuance of the order subject to such terms and conditions as the court thinks fit.

(6) Nothing in this Article shall permit an order under paragraph (1) to authorise the sale of intoxicating liquor—

- (a) on Christmas Day, Easter Day or Good Friday, or
- (b) to a person admitted to the premises—
  - (i) less than 30 minutes before the end of the hours mentioned in paragraph (2), or

- (ii) where the provision of entertainment or substantial refreshment or both entertainment and substantial refreshment is due to cease before the end of those hours, less than 30 minutes before that cessation.

(7) Nothing in paragraph (2) shall require the provision of substantial refreshment during the 30 minutes before the end of the hours mentioned in that paragraph.

(8) In this Article “entertainment” does not include any form of entertainment given otherwise than by persons actually present and performing.

(9) No part of any premises shall be treated for the purposes of this Article as used, or intended to be used, for the purpose of habitually providing entertainment or substantial refreshment or both entertainment and substantial refreshment unless it is used, or intended to be used, for the purpose of providing such entertainment or refreshment during the hours mentioned in paragraph (2) and for a substantial period preceding the end of the general permitted hours mentioned in Article 42(1) on every day or on particular days in every week, any break for a period or periods not exceeding 2 weeks in any 3 successive months, or on any special occasion, or by reason of any emergency being disregarded.

(10) The premises to which this Article applies are—

- (a) an hotel;
- (b) a restaurant;
- (c) a conference centre;
- (d) a higher education institution;
- (e) any part of premises of a kind mentioned in Article 5(1)(a) which, in the case of a part specified in an order under paragraph (1) where substantial refreshment is to be habitually provided, are structurally adapted and used, or intended to be used, for the purpose of providing persons frequenting the premises with a main table meal at midday or in the evening, or both.

#### **Authorisations for additional permitted hours**

**45.—**(1) On the application of a holder of a licence for premises of a kind mentioned in Article 5(1)(a) other than premises to which an order under Article 44 applies, not less than 7 days before the occasion to which the application relates, the sub-divisional commander for the police sub-division in which the premises are situated may, in writing, authorise the holder of the licence to sell intoxicating liquor during the hours—

- (a) on week-days from 11 in the evening to 1 in the morning of the day next following, or
- (b) on Sunday, not being 31st December, from 10 in the evening to 12 in the evening, or
- (c) on Sunday, being 31st December, from 10 in the evening to 1 in the morning of the day next following;

in addition to the hours mentioned in Article 42(1), on any 1 occasion specified in the authorisation, and any additional hours authorised under this Article shall be included in the permitted hours for those premises.

(2) Not more than 20 authorisations shall be granted under this Article to any holder of a licence in any year.

(3) Nothing in this Article shall permit an authorisation under paragraph (1) to authorise the sale of intoxicating liquor—

- (a) on Christmas Day, Easter Day or Good Friday; or
- (b) to a person admitted to the premises less than 30 minutes before the end of the hours mentioned in that paragraph.

### *Exceptions*

#### **Exceptions from prohibition of sale, etc., of intoxicating liquor outside permitted hours**

**46.**—(1) Where intoxicating liquor is sold in licensed premises during the permitted hours, Article 41 shall not prohibit or restrict—

- (a) during the first 30 minutes after the conclusion of the permitted hours except where the premises are—
    - (i) part of premises of a kind mentioned in Article 5(1)(a) with respect to which an order under Article 43 is in force; or
    - (ii) of a kind mentioned in Article 5(1)(b); the consumption or permitting consumption of the liquor in the premises;
  - (b) during the first 30 minutes after the Inclusion of the permitted hours, the taking of the liquor from the premises in a sealed container, if the premises are—
    - (i) of a kind mentioned in Article 5(1)(a) (except where the liquor is taken from a part of the premises with respect to which an order under Article 43 is in force or where the liquor was sold in contravention of Article 50(1)); or
    - (ii) an hotel (except where the liquor was sold in contravention of Article 5(3)(b) or 50(1)).
- (2) Article 41 shall not prohibit or restrict—
- (a) the sale of intoxicating liquor to a resident in premises of a kind mentioned in Article 5(1)(a) which provides accommodation for guests such as is mentioned in paragraph (3) or in an hotel or in a guest house; or
  - (b) the taking of it by a resident from such premises or hotel or, in a case to which Article 51(1)(b) applies, guest house; or
  - (c) the consumption or permitting consumption of it in such premises, hotel or guest house by a resident or his guests; or
  - (d) the dispatch, in a vehicle or receptacle, by the holder of a licence 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, of intoxicating liquor sold by him for delivery and consumption off the premises.
- (3) The accommodation for guests to which paragraph (2) applies is accommodation—
- (a) in an establishment allocated by a certificate under Article 13 of the Tourism (Northern Ireland) Order 1992 to the statutory category of tourist establishment mentioned in Article 12(1)(b) of that Order; and
  - (b) which conforms to the requirements, if any, prescribed by regulations made with the concurrence of the Department of Economic Development.

### *Extension licences*

#### **Extension licences for sale, etc., of liquor in certain premises outside permitted hours**

**47.**—(1) A court of summary jurisdiction, or a clerk of petty sessions acting under paragraph (2), may, on an application made, in compliance with the procedure set out in Schedule 10, by the holder of a licence for premises which are or include premises for which an order under Article 48 is in force, grant an extension licence authorising that person to sell intoxicating liquor by retail—

- (a) in such part or parts of the premises for which an order under Article 48 is in force, and
- (b) during such hours, being the hours—

- (i) on week-days between half past 11 in the morning and 1 in the morning of the day next following, or
- (ii) on Sunday, not being 31st December, between half past 12 in the afternoon and 12 in the evening, or
- (iii) on Sunday, being 31st December, between half past 12 in the afternoon and 1 in the morning of the day next following,

as may be specified in the extension licence; and those hours shall, so far as not otherwise comprised in them, be included in the permitted hours for the part or parts of the premises specified in the extension licence.

(2) Subject to paragraph (3), where notice of an application for an extension licence has been served upon the clerk of petty sessions, he may grant the extension licence as if the application had been made to him and may do so in the absence of the applicant.

(3) Where—

- (a) a notice of objection has been served upon the clerk and has not been withdrawn, or
- (b) the clerk is of the opinion, for any other reason, that an application for the extension licence should be made to the court,

the clerk shall require the application to be made to the court and shall notify the applicant and the objector, if any, of the requirement and of the time and place of the hearing.

(4) An extension licence shall not authorise—

- (a) the sale of intoxicating liquor otherwise than as ancillary to a function to which this paragraph applies which is to be held in the premises to which this Article applies during the hours specified in the licence; and
- (b) the sale of intoxicating liquor for consumption off the part or parts of the premises specified in the licence.

(5) The functions to which paragraph (4) applies are—

- (a) functions organised by any body established for social, charitable or benevolent purposes or for furthering the common interests of persons associated with any trade, profession, educational or cultural activity, game or sport;
- (b) functions (not exceeding 6 in number in any year) organised by the licence holder.

(6) Nothing in this Article shall permit an extension licence to authorise the sale of intoxicating liquor—

- (a) on Christmas Day, Easter Day or Good Friday, or
- (b) to a person admitted to the premises after half past 12 in the morning or, where the function is due to end before 1 in the morning, less than 30 minutes before the function is due to end.

(7) If the holder of an extension licence or any servant or agent of his sells intoxicating liquor in contravention of paragraph (4), the holder of the licence shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(8) An extension licence granted in connection with a function in any premises shall, at any time during the period of the function when intoxicating liquor is sold or made available for purchase or being consumed in the premises, forthwith be produced by the person who is in charge of the sale of intoxicating liquor there for examination by a constable at his request, and if it is not so produced without reasonable excuse the holder of the licence and that person shall each be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

### **Suitability of certain premises for functions**

- 48.**—(1) In respect of premises to which this Article applies,—
- (a) a county court which grants a licence or declares a licence provisionally granted to be final, on the application of the person applying for the grant or declaration, or
  - (b) a court of summary jurisdiction, at any time, upon the application of the holder of the licence for those premises made in compliance with the procedure set out in Schedule 9,
- may, by order, specify any part of the premises as being suitable for functions such as are mentioned in Article 47(5).
- (2) A court shall not make an order under paragraph (1) unless it is satisfied—
- (a) that the part of the premises specified in the order is suitable for functions; and
  - (b) that—
    - (i) that part of the premises is structurally adapted and used or intended to be used for the purpose of providing for the accommodation of persons frequenting it substantial refreshment to which the sale of intoxicating liquor is ancillary; and
    - (ii) suitable means of access to that part of the premises, otherwise than through any other part of the premises which is used for the sale of intoxicating liquor, are available for customers.
- (3) An order under paragraph (1) may be revoked by a court of summary jurisdiction—
- (a) on the application of the holder of the licence; or
  - (b) where, on complaint made under Part VIII of the Magistrates' Courts (Northern Ireland) Order 1981 the court is not satisfied that the requirements of paragraph (2)(a) and (b) have continued to be complied with.
- (4) The premises to which this Article applies are—
- (a) an hotel;
  - (b) a restaurant;
  - (c) a conference centre;
  - (d) a higher education institution;
  - (e) any part of premises of a kind mentioned in Article 5(1)(a) which are structurally adapted and used, or intended to be used, for the purpose of providing persons frequenting the premises with a main table meal at midday or in the evening, or both.

### *Miscellaneous*

#### **Power of Secretary of State to vary hours in certain circumstances**

**49.** Where it appears to the Secretary of State that it is expedient for the preservation of public order that the permitted hours should be restricted or there should be no permitted hours, he may by order direct that in such place or places as may be specified in the order and on such day or days, not exceeding 3 in number, and in premises of such kind or kinds as may be so specified the permitted hours shall be the hours so specified or there shall be no permitted hours.

## PART IV

### CONDUCT OF LICENSED PREMISES, ETC.

#### *Conditions for sale, etc., of intoxicating liquor applicable to certain licences*

#### **Restriction as to sale, etc., of intoxicating liquor for consumption off the premises**

**50.**—(1) The holder of a licence for premises of a kind mentioned in Article 5(1)(a) or an hotel shall not, himself or by his servant or agent, sell intoxicating liquor to, or make it available for purchase by, any person for consumption off the premises on Christmas Day or Easter Day.

(2) 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.

(3) Paragraph (1) shall not prohibit or restrict the selling of intoxicating liquor for consumption off the premises to a resident in premises of a kind mentioned in Article 5(1)(a) which provides accommodation for guests such as is mentioned in Article 46(3) or an hotel or the taking of it by him from such premises or hotel.

#### **Conditions as to sale, etc., in guest houses and restaurants**

**51.**—(1) Subject to paragraph (2), where a guest house is licensed for the sale of intoxicating liquor, the holder of the licence shall not, himself or by his servant or agent, sell such liquor to, or make it available for purchase by, any person or permit it to be consumed by any person unless the intoxicating liquor is sold to a resident and is consumed by him or his guest either—

- (a) on the premises; or
- (b) with a meal supplied at, but consumed off, the premises.

(2) Where there is carried on the business of a restaurant in the premises of a guest house licensed for the sale of intoxicating liquor, paragraph (3) shall apply to the sale and consumption of intoxicating liquor in the restaurant as it applies to a restaurant which is licensed for the sale of intoxicating liquor.

(3) Where a restaurant is licensed for the sale of intoxicating liquor, the holder of the licence shall not, himself or by his servant or agent, sell such liquor to, or make it available for purchase by, any person or permit it to be consumed by any person unless the conditions specified in paragraph (4) are complied with.

(4) The conditions mentioned in paragraph (3) are—

- (a) that the intoxicating liquor is sold for consumption and is consumed—
  - (i) as ancillary to a main table meal; and
  - (ii) in a part of the restaurant set apart for the service of such meals or for the service of intoxicating liquor and other beverages to diners before or after such meals; and
- (b) that suitable beverages other than intoxicating liquor (including drinking water) are also made available for consumption; and
- (c) that the intoxicating liquor is paid for at the same time, and on the same bill, as the meal; and
- (d) that no payment by way of entrance fee to the premises containing the restaurant shall be made; and
- (e) any conditions prescribed by regulations for the purposes of this Article.

(5) Any person acting in contravention of paragraph (1), (2) or (3) shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

### **Places of public entertainment**

**52.**—(1) Where a place of public entertainment of any description is licensed for the sale of intoxicating liquor, such liquor shall not be sold or made available for purchase there, except where—

- (a) it is sold to, or made available for purchase by, persons employed or attending an entertainment in the premises; and
- (b) other beverages and food are also made available for purchase; and
- (c) any conditions prescribed by regulations applying to places of public entertainment of that description are observed.

(2) If paragraph (1) is contravened the holder of the licence shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

### **International airports**

**53.**—(1) Where any licensed premises are within the examination station approved under section 22 of the Customs and Excise Management Act 1979 for an airport the Department may, by order, specify the airport as an international airport.

(2) The Department shall not specify an airport as an international airport unless—

- (a) it appears to it that there is a substantial amount of international passenger traffic at the airport; and
- (b) it is satisfied that arrangements have been made for affording reasonable facilities on licensed premises within the examination station referred to in paragraph (1) at the airport for obtaining hot and cold beverages other than intoxicating liquor at all times when such liquor is obtainable for consumption in the premises.

(3) Where it appears to the Department that at any airport specified as an international airport by order under paragraph (1) the arrangements referred to in paragraph (2)(b) are not being maintained, it shall revoke that order in relation to the airport, but without prejudice to its power of making a further order with respect to it.

### **Seamen's canteens**

**54.**—(1) Where a seamen's canteen is licensed for the sale of intoxicating liquor, such liquor shall not be sold or made available for purchase there, except where—

- (a) it is sold to, or made available for purchase by, persons who are entitled to use the canteen under rules in force under Article 77; and
- (b) other beverages and food are also made available for purchase.

(2) If paragraph (1) is contravened the holder of the licence shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

### *General provisions regulating sale, etc., possession and delivery of intoxicating liquor*

### **Restrictions on sale of certain kinds of alcohol**

**55.**—(1) A person shall not, himself or by his servant or agent, sell, make available for purchase or supply in any licensed premises any liquor which consists of or is mixed with any alcohol of a kind other than ethyl alcohol.

(2) 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 5 on the standard scale or to imprisonment for a term not exceeding 6 months or to both.

**Penalty for permitting consumption of intoxicating liquor in unlicensed part of premises**

**56.**—(1) Where part or parts of any premises (other than premises of a kind mentioned in Article 5(1)(a) which provides accommodation for guests such as is mentioned in Article 46(3), premises of a kind mentioned in Article 5(1)(b), an hotel or a guest house) are licensed premises the holder of the licence, himself or by his servant or agent, shall not permit any other person to consume intoxicating liquor in any other part of the premises.

(2) If paragraph (1) is contravened the holder of the licence shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3) Where the holder of a licence is charged with an offence under this Article it shall be a defence to prove—

- (a) that the liquor was supplied by the person in charge of the business carried on under the licence at the expense of the holder or that person; and
- (b) that it was consumed by either—
  - (i) the holder of the licence or that person, or his guests; or
  - (ii) persons employed in the premises for the purposes of the business carried on under the licence; and
- (c) that it was consumed in a part of the premises to which the public do not have access.

**Penalty for breach of terms of off-licence**

**57.**—(1) Where, having purchased intoxicating liquor from the holder of an off-licence or his servant or agent, a person consumes the liquor—

- (a) in the licensed premises, or
- (b) in premises which adjoin or are near the licensed premises and which belong to the holder of the licence or are under his control or used by his permission,

then, that person and the holder of the licence, if the consumption is with his or his servant's or agent's knowledge or consent, shall be guilty of an offence.

(2) If the holder of an off-licence, himself or by his servant or agent, with intent to evade the terms of the licence takes any intoxicating liquor from the licensed premises for the purpose of its being sold on his account or for his benefit or profit, he shall be guilty of an offence.

(3) A person guilty of an offence under paragraph (1) or (2) shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(4) For the purposes of paragraph (2), if liquor is taken for the purpose of its being consumed in any premises or place belonging to the holder of the licence, or used or occupied by him, the burden of proving that he did not intend to evade the terms of the licence shall lie upon him.

(5) In this Article “off-licence” means a licence for premises of a kind mentioned in Article 5(1)(b).

*Special provision with respect to young persons***Young persons prohibited from certain premises**

**58.**—(1) During the permitted hours a person under the age of 18 shall not be in—

- (a) any part of premises of a kind mentioned in Article 5(1)(a) which is—
  - (i) structurally adapted for the sale of intoxicating liquor for consumption off the premises; and

- (ii) not connected by any internal means of passage open to customers with a part of the premises used for the sale of intoxicating liquor for consumption in the premises;
- (b) any part of premises of a kind mentioned in Article 5(1)(b);
- (c) any part of any other licensed premises which—
  - (i) contains a bar; or
  - (ii) is used exclusively or mainly for the sale and consumption of intoxicating liquor.
- (2) The holder of a licence himself or by his servant or agent, or such a servant or agent, shall not allow a person under the age of 18 to be in any part of the licensed premises as mentioned in paragraph (1) during the permitted hours.
- (3) A person shall not cause or procure any person under the age of 18 to go to, or to be in, any part of licensed premises as mentioned in paragraph (1) during the permitted hours.
- (4) Paragraphs (1) and (2) shall not apply with respect to a person under the age of 18 who is in a part of premises mentioned in paragraph (1)(a) or (b) and is in the company of a person who is 18 or over.
- (5) Paragraphs (1), (2) and (3) shall not apply with respect to a person under the age of 18 who is in a part of licensed premises if—
  - (a) the person under 18 is in the company of a person who is 18 or over; and
  - (b) the part of the licensed premises are premises for which a children’s certificate is in force; and
  - (c) where the premises contain a bar, the person under the age of 18 is seated at a table away from the bar; and
  - (d) the certificate is operational or paragraph (6) applies.
- (6) This paragraph applies where—
  - (a) the person under the age of 18, or a person in whose company he is, is consuming a meal purchased before the certificate ceased to be operational, and
  - (b) no more than 30 minutes have elapsed since the certificate ceased to be operational.
- (7) A person under the age of 18 shall not be at the bar in a part of licensed premises for which a children’s certificate is in force and the certificate is operational or paragraph (6) applies.
- (8) The holder of a licence himself or by his servant or agent, or such a servant or agent, shall not allow a person under the age of 18 to be at the bar in a part of licensed premises for which a children’s certificate is in force and the certificate is operational or paragraph (6) applies.
- (9) A person shall not cause or procure any person under the age of 18 to go to, or to be at, the bar in a part of licensed premises for which a children’s certificate is in force and the certificate is operational or paragraph (6) applies.
- (10) Any person acting in contravention of paragraph (1), (2), (3), (7), (8) or (9) shall be guilty of an offence and shall be liable on summary conviction—
  - (a) for a contravention of paragraph (1) or (7), to a fine not exceeding level 3 on the standard scale;
  - (b) for a contravention of paragraph (2), (3), (8) or (9), to a fine not exceeding level 4 on the standard scale.
- (11) In any proceedings for an offence by reason of a contravention of paragraph (2) or (7) it shall be a defence—
  - (a) in the case of proceedings against the holder of the licence for an offence committed by his servant or agent, for the holder of the licence to prove that he exercised all due diligence to avoid the commission of such an offence; or

- (b) in any other case, for the holder of the licence or his servant or agent to prove—
  - (i) that he exercised all due diligence to avoid the commission of such an offence; or
  - (ii) that he had no reason to suspect that the person under the age of 18 had not attained that age.

(12) Where a person under the age of 18 represents himself to be the age of 18 or over for the purpose of being in any part of licensed premises as mentioned in paragraph (1) during the permitted hours, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

- (13) Nothing in this Article shall apply with respect to a person under the age of 18 who is—
- (a) a child of the licence holder; or
  - (b) a person who has attained the age which is the upper limit of compulsory school age and is—
    - (i) employed by the holder of the licence under a contract in writing; or
    - (ii) receiving training under a scheme approved by the Department of Economic Development; or
    - (iii) engaged in a placement scheme as part of a further or higher education course; or
  - (c) resident in the licensed premises, but not employed there; or
  - (d) in a part of licensed premises as mentioned in paragraph (1) solely for the purposes of passing to or from some other part of the premises which is not such a part as aforesaid and to or from which there is no other convenient means of access; or
  - (e) in a refreshment room in public transport premises or in a room constructed, fitted and intended to be used for any purpose to which the holding of a licence is ancillary.

(14) Where a person under the age of 18 who is found in any part of 4 licensed premises as mentioned in paragraph (1) is employed by, or in training or placement with, the holder of the licence, that person or the holder shall, at the request of a constable, produce the written contract or other proof of training or placement within 7 days of the request to, or in accordance with reasonable directions of, the constable for examination, and if it is not so produced that person or, as the case may be, the holder shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

### **Children's certificates**

**59.**—(1) In respect of premises which are or include premises to which Article 58(1)(c) applies,—

- (a) a county court which grants a licence or declares a licence provisionally granted to be final, on the application of the person applying for the grant or declaration, or
- (b) a court of summary jurisdiction, at any time, upon the application of the holder of the licence for those premises made in compliance with the procedure set out in Schedule 9,

may grant a children's certificate in respect of any part of the premises to which Article 58(1)(c) applies.

(2) A court shall refuse an application for the grant of a children's certificate unless it is satisfied that—

- (a) the part of the premises to which the application relates constitutes an environment in which it is suitable for a person under the age of 18 to be present; and
- (b) meals and suitable beverages other than intoxicating liquor (including drinking water) will also be made available for consumption in that part when the certificate is operational; and
- (c) that part is equipped and furnished with an adequate number of tables and chairs; and

- (d) any conditions prescribed by regulations made for the purposes of this Article have been complied with.
- (3) Subject to paragraph (4), a children's certificate shall be operational at any time up to 9 in the evening.
- (4) A court which grants a children's certificate may, on the application of the applicant or, as the case may be, the holder of the certificate, by order direct that, on such day or days as may be specified in the order, the time when the certificate ceases to be operational shall be such earlier time as may be so specified.
- (5) Where a children's certificate is in force for any part of licensed premises the holder of the licence shall keep displayed in some conspicuous place in that part a notice which—
- (a) states that a children's certificate is in force for that part; and
  - (b) explains the effect of the certificate and of the conditions under paragraph (2) or Article 58(5) which extend to it.
- (6) A holder of a licence acting in contravention of paragraph (5) shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 1 on the standard scale.
- (7) In any proceedings for an offence by reason of a contravention of paragraph (5) it shall be a defence for the holder of the licence to prove that he exercised all due diligence to avoid the commission of such an offence.
- (8) A children's certificate may be revoked by a court of summary jurisdiction on the application of the holder of the licence.
- (9) Where, upon complaint made under Part VIII of the Magistrates' Courts (Northern Ireland) Order 1981, a court of summary jurisdiction is satisfied—
- (a) that the part of the premises for which a children's certificate is in force does not constitute an environment in which it is suitable for a person under the age of 18 to be present; or
  - (b) in the case of a complaint made by the sub-divisional commander of the police sub-division in which the premises are situated, that any condition specified in paragraph (2)(b) to (d) or in Article 58(5) is not being complied with,
- the court may—
- (i) revoke the children's certificate; or
  - (ii) revoke any order under paragraph (4) which relates to the certificate; or
  - (iii) modify, in relation to the certificate, the time mentioned in paragraph (3) or in any order under paragraph (4) which relates to the certificate.
- (10) A children's certificate shall be in such form as may be prescribed by regulations.

### **Sale, etc., of intoxicating liquor to young persons**

- 60.**—(1) Subject to paragraph (5), the holder of a licence himself or by his servant or agent, or such a servant or agent, shall not—
- (a) sell or deliver intoxicating liquor to a person under the age of 18; or
  - (b) sell or deliver intoxicating liquor to any person for consumption by a person under the age of 18 in the licensed premises; or
  - (c) sell or deliver intoxicating liquor to any person for consumption by a person under the age of 18 off the licensed premises; or
  - (d) permit a person under the age of 18 to consume intoxicating liquor—
    - (i) in the licensed premises; or

- (ii) in premises which adjoin or are near the licensed premises and which belong to the holder of the licence or are under his control or used by his permission.
- (2) A person under the age of 18 shall not—
- (a) purchase intoxicating liquor; or
  - (b) consume intoxicating liquor in any place or premises except premises used only as a private residence.
- (3) A person shall not purchase intoxicating liquor for delivery to, or consumption by, a person under the age of 18 in any place or premises except premises used only as a private residence or deliver it to, or permit it to be consumed by, him in any such place or premises.
- (4) Subject to paragraph (5), a person shall not send a person under the age of 18 for the purpose of obtaining intoxicating liquor sold or to be sold in licensed premises for consumption off the premises whether the liquor is to be obtained from the licensed premises or other premises from which it is delivered in pursuance of the sale.
- (5) Paragraphs (1) and (4) shall not prohibit or restrict—
- (a) the delivery of intoxicating liquor to a person under the age of 18, where the delivery is made at the residence or working place of the purchaser;
  - (b) the employment, by the holder of a licence, of a person under the age of 18 who is a child of the licence holder or his servant, as a messenger to deliver intoxicating liquor.
- (6) Any person acting in contravention of paragraph (1), (2), (3) or (4) shall be guilty of an offence and shall be liable on summary conviction—
- (a) for a contravention of paragraph (1), (3) or (4), to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding 6 months or to both;
  - (b) for a contravention of paragraph (2), to a fine not exceeding level 3 on the standard scale.
- (7) In any proceedings for an offence by reason of the contravention of paragraph (1) it shall be a defence—
- (a) in the case of proceedings against the holder of the licence for an offence committed by his servant or agent, for the holder of the licence to prove that he exercised all due diligence to avoid the commission of such an offence; or
  - (b) in any other case, for the holder of the licence or his servant or agent to prove—
    - (i) that he exercised all due diligence to avoid the commission of such an offence; or
    - (ii) that he had no reason to suspect that the person under the age of 18 had not attained that age.
- (8) Where a person under the age of 18 represents himself to be the age of 18 or over for the purpose of obtaining, or being permitted to consume, intoxicating liquor, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

*Preservation of order*

**Drunkenness in licensed premises**

- 61.—**(1) Where the holder of a licence himself or by his servant or agent, or such a servant or agent,—
- (a) permits drunkenness or any disorderly conduct to take place in the licensed premises, or
  - (b) sells intoxicating liquor to a drunken person knowing him to be such,

he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(2) Where any person is found drunk in licensed premises he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(3) Where the holder of a licence or his servant or agent is charged under paragraph (1)(a) with permitting drunkenness, and it is proved that any person was drunk in the licensed premises, the burden of proving that the defendant took all reasonable steps to prevent drunkenness in the premises shall lie upon him.

### **Procuring drink for drunken person**

**62.**—(1) If any person in licensed premises procures intoxicating liquor for consumption by a drunken person he shall be guilty of an offence.

(2) If any person aids a drunken person in obtaining or consuming intoxicating liquor in licensed premises he shall be guilty of an offence.

(3) If any person without reasonable excuse brings a drunken person into licensed premises he shall be guilty of an offence.

(4) A person guilty of an offence under this Article shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(5) A person shall not be convicted of an offence under this Article unless the court is satisfied that he knew or ought to have known the condition of the person in connection with whom the charge is brought.

### **Power to exclude drunken persons, etc., from licensed premises**

**63.**—(1) Without prejudice to any other right to refuse a person admission to premises or to expel a person from premises, the holder of a licence or his servant or agent may refuse to admit to, or may expel from, the licensed premises any person who is drunken, or is acting in a disorderly manner, or whose presence in the licensed premises would subject the holder of the licence to a penalty under this Order or under any other statutory provision.

(2) If any person liable to be expelled from licensed premises under this Article, when requested by the holder of the licence or his servant or agent or a constable to leave the premises, fails to do so, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(3) A constable shall, on the demand of the holder of a licence or his servant or agent, help to expel from the licensed premises any person liable to be expelled from those premises under this Article, and may use such force as may be required for the purpose.

### **Riotous, disorderly or indecent behaviour in licensed premises**

**64.** A person who in any licensed premises uses—

(a) riotous, disorderly or indecent behaviour, or

(b) behaviour whereby a breach of the peace is likely to be occasioned,

shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale or to imprisonment for a term not exceeding 6 months or to both.

### **Prostitutes not to be allowed to assemble on licensed premises**

**65.**—(1) Where the holder of a licence himself or by his servant or agent, or such a servant or agent, permits the licensed premises to be the habitual resort or place of meeting of reputed

prostitutes, whether the object of their so resorting or meeting is or is not prostitution, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(2) Paragraph (1) shall not prohibit any such persons from being permitted to remain in the premises for the purpose of obtaining reasonable refreshment for such time as is necessary for that purpose.

### *Miscellaneous*

#### **Conditions as to delivery of intoxicating liquor**

**66.**—(1) A person shall not, himself or by his servant or agent,—

- (a) deliver in pursuance of a sale any intoxicating liquor from any vehicle or receptacle unless the quantity, description and price of the liquor and the name and address of the person to whom it is to be delivered had been entered before the liquor was dispatched—
  - (i) in a day book kept on the premises from which the liquor was dispatched; and
  - (ii) in a delivery book or invoice, carried by the person delivering the liquor; or
- (b) carry in any vehicle or receptacle, while in use for the delivery of intoxicating liquor in pursuance of a sale, any liquor for which there is no entry in any such day book and delivery book or invoice; or
- (c) deliver any intoxicating liquor in pursuance of a sale at any address not entered in any such day book and delivery book or invoice; or
- (d) refuse to allow a constable to examine any such vehicle or receptacle or any such day book or delivery book or invoice.

(2) 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.

(3) In any proceedings against the holder of a licence for an offence under this Article committed by his servant or agent it shall be a defence for him to prove—

- (a) that the commission of the offence was due to some cause beyond his control; and
- (b) that he exercised all due diligence to avoid the commission of such an offence.

#### **Prohibition of consumption, etc., of intoxicating liquor at entertainments**

**67.**—(1) Subject to paragraph (2), it shall be unlawful to supply, consume or keep for supply or consumption intoxicating liquor at any entertainment in any premises.

(2) Paragraph (1) shall not apply to anything done at—

- (a) any entertainment organised otherwise than for purposes of private gain; or
- (b) any entertainment in licensed premises or in the premises of a club registered under the Registration of Clubs (Northern Ireland) Order 1996; or
- (c) any entertainment in connection with which an occasional licence has been granted.

(3) Where a person—

- (a) himself or by his servant or agent, supplies or keeps for supply or consumption intoxicating liquor in contravention of paragraph (1), or
- (b) being a person concerned in the organisation of an entertainment, himself or by his servant or agent, permits any person to supply, consume or keep for supply or consumption intoxicating liquor in contravention of paragraph (1), or

(c) being the holder of a licence, himself or by his servant or agent, delivers intoxicating liquor to any premises mentioned in paragraph (1) or permits it to be so delivered, or

(d) consumes intoxicating liquor in contravention of paragraph (1),

he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding 6 months or to both and, except in the case of an offence under sub-paragraph (c), any intoxicating liquor found in his possession and its containers shall be liable to be forfeited.

(4) Where paragraph (1) is contravened, every occupier of the premises who is proved to have had knowledge of or consented to the contravention shall be guilty of an offence under this Article.

(5) Subject to paragraph (6), for the purposes of this Article, an entertainment shall be deemed to have been organised for private gain if any pecuniary advantage accrued or was intended to accrue to any person concerned in its organisation as a result of the entertainment; and in determining whether any such advantage so accrued or was intended to accrue no account shall be taken of any expenditure incurred in connection with the entertainment.

(6) An entertainment shall not be deemed to have been organised for private gain if the whole proceeds of the entertainment, after deducting the expenses of the entertainment, are devoted to purposes other than private gain.

(7) Any person who organises an entertainment to which paragraph (2)(a) applies shall—

(a) make, and keep for a period of at least 18 months, records and accounts relating to that entertainment;

(b) record in those accounts the purposes for which the proceeds of the entertainment are to be applied; and

(c) inform all potential participants of those purposes.

(8) The person who organises an entertainment to which paragraph (2)(a) applies shall, not less than 7 days before the date on which the entertainment is to take place, serve notice of the entertainment upon the sub-divisional commander of the police sub-division in which the premises where the entertainment is to take place are situated.

(9) Nothing in this Article shall affect the delivery or supply of intoxicating liquor to, or the consumption of intoxicating liquor by, a person in premises in which he is residing; and in determining for the purpose of this Article whether an entertainment is being held in any premises, the presence of persons residing in the premises shall be disregarded.

(10) Without prejudice to Article 80, for the purposes of this Article a vessel shall be deemed to be premises and paragraph (4) shall apply to the master of a vessel as it applies to the occupier of premises.

### **Prohibition of consumption, etc., of intoxicating liquor in certain premises**

**68.**—(1) Subject to paragraph (2), it shall be unlawful to supply, consume or keep for supply or consumption intoxicating liquor in any premises used by a club.

(2) Paragraph (1) shall not apply to—

(a) any licensed premises or the premises of a club registered under the Registration of Clubs (Northern Ireland) Order 1996; or

(b) any premises for which an occasional licence has been granted.

(3) Where a person—

(a) himself or by his servant or agent, supplies or keeps for supply or consumption intoxicating liquor in contravention of paragraph (1), or

- (b) himself or by his servant or agent, permits any person to supply, consume or keep for supply or consumption intoxicating liquor in contravention of paragraph (1), or
- (c) being the holder of a licence, himself or by his servant or agent, delivers intoxicating liquor to any premises mentioned in paragraph (1) or permits it to be so delivered, or
- (d) consumes intoxicating liquor in contravention of paragraph (1),

he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding 6 months or to both and, except in the case of an offence under sub-paragraph (c), any intoxicating liquor found in his possession and its containers shall be liable to be forfeited.

(4) Where paragraph (1) is contravened, every occupier of the premises who is proved to have had knowledge of or consented to the contravention shall be guilty of an offence under this Article.

(5) Nothing in this Article shall affect the delivery or supply of intoxicating liquor to, or the consumption of intoxicating liquor by, a person in premises in which he is residing.

(6) Without prejudice to Article 80, for the purposes of this Article a vessel shall be deemed to be premises and paragraph (4) shall apply to the master of a vessel as it applies to the occupier of premises.

#### **Persons found on unlicensed premises, etc.**

**69.**—(1) Where on any premises or in any place any liquor is sold or made available for purchase or permitted to be consumed in contravention of Article 3, 55 or 56, any person found there shall, unless he proves that he is there for a lawful purpose, be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(2) Where, on being asked by a constable for his name and address, a person found as mentioned in paragraph (1)—

- (a) refuses to give them; or
- (b) gives a false name or address; or
- (c) refuses to answer satisfactorily any question put to him to ascertain the correctness of the name or address given,

he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

## PART V ENFORCEMENT

#### **Production of licence**

**70.** The holder of a licence or protection order shall at the request of a constable produce it within 7 days of the request to, or in accordance with the directions of, the constable for examination, and if it is not so produced he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

#### **Provision for inspection and rights of entry**

**71.**—(1) A constable may, at any reasonable time,—

- (a) for the purpose of inspecting the suitability of—

- (i) premises in respect of which a notice of application has been served under paragraph 1(c) of Schedule 1 for the grant of a licence under this Order, or
  - (ii) licensed premises in respect of which a notice of application has been served under paragraph 3 of Schedule 4 for the renewal of a licence under this Order and in which since the last previous renewal of the licence (or, where the renewal to be applied for is the first renewal of the licence, since the licence was granted), alterations have been made,
- enter and inspect the premises or, as the case may be, the licensed premises;
- (b) for the purpose of ascertaining whether a contravention of this Order is being or has been committed or whether any conditions which are applicable under this Order are being or have been complied with, enter and inspect—
    - (i) licensed premises; or
    - (ii) premises which adjoin or are near licensed premises and which belong to the holder of the licence or are under his control or used by his permission; or
    - (iii) premises on which a constable has reason to believe an offence under Article 67 or 68 is being or has been committed.
- (2) If any person—
- (a) fails or delays without reasonable excuse to admit a constable who demands admission to the premises under paragraph (1), or
  - (b) on being required by a constable to do so, fails without reasonable excuse to permit the constable to inspect the premises,

he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(3) If, on complaint on oath, a justice of the peace is satisfied that there are reasonable grounds for suspecting that an offence under this Order is being, has been or is about to be committed at any place, he may issue a warrant in writing authorising any constable to enter that place, if necessary by force, and to search that place.

(4) Any constable who enters any place under the authority of a warrant issued under paragraph (3) may—

- (a) seize and remove any intoxicating liquor and its containers, document, money or valuable thing, instrument or other thing found in that place which he has reasonable cause to believe may be required as evidence for the purposes of proceedings in respect of an offence under this Order; and
  - (b) search any person found at that place whom he has reasonable cause to believe to be committing or to have committed any such offence.
- (5) In paragraphs (3) and (4) “place” includes “premises”.

### *Suspension of licences*

#### **Suspension of licences**

- 72.—(1) An application for the suspension of a licence until—
- (a) the end of the then current licensing period, or
  - (b) in the case of a licence which a court has determined shall remain in force for a lesser period, the end of that lesser period,

may be made by the sub-divisional commander of the police sub-division in which the premises to which the application relates are situated to a court of summary jurisdiction on any of the grounds on which objection may be made to an application for renewal of the licence.

(2) On an application for the suspension of a licence a court shall hear representations, if any, from the holder of the licence.

(3) A court shall refuse an application for the suspension of a licence unless it is satisfied that the application is not made on grounds which have been, or ought to have been, raised previously by way of objection either when the licence was granted or on an occasion when it has been renewed.

(4) Where the court refuses an application for the suspension of the licence it shall specify in its order the reasons for its refusal.

(5) A suspended licence shall not be in force during the period of suspension except for the purposes of the provisions of this Order relating to the surrender, renewal or transfer of licences and to protection orders.

### **Suspension of licences on conviction of certain offences**

**73.**—(1) Where the holder of a licence is convicted of—

- (a) an offence under Article 3, 5(6), 41(1)(a), 50, 51, 55 or 60(1), committed in or in relation to the licensed premises, and that offence is committed within the period of 5 years from the commission by the holder of an offence under any of those Articles committed in or in relation to those premises, or
- (b) an offence under section 13 of the Criminal Law Amendment Act 1885 (permitting premises to be a brothel), where the offence was committed in the licensed premises or in premises which adjoin or are near them,

the court shall, unless satisfied that by reason of extenuating circumstances in connection with the offence (which shall be specified by the order) the licence ought not to be suspended, by order, suspend the licence.

(2) Where—

- (a) the holder of a licence is convicted of an offence under—
  - (i) any provision of this Order, other than an offence to which sub-paragraph (1)(a) applies of which he is convicted in circumstances such as are mentioned in that sub-paragraph, or
  - (ii) the Food Safety (Northern Ireland) Order 1991, where the offence was committed in or in relation to the licensed premises, or
- (b) the holder of a licence or his servant or agent is convicted of an offence under the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985, where—
  - (i) the offence was committed in the licensed premises, and
  - (ii) in the case of an offence committed by a servant or agent of the holder of the licence, the offence was committed with the knowledge of the holder of the licence,

the court may suspend the licence.

(3) Without prejudice to paragraph (2), where the holder of a licence in respect of any premises is convicted of an offence under—

- (a) Article 41(1)(a) by virtue of a contravention of Article 44 or 45 or
- (b) Article 47(4)(b),

the court, instead of suspending the licence under paragraph (2), may—

- (i) in the case of an offence under Article 41(1)(a), order that the premises shall not be premises to which Article 44 or 45 applies, or
- (ii) in the case of an offence under Article 47(4)(b), order that the premises shall not be premises to which Article 47 applies,

for such period as the court may determine.

(4) The period for which a licence is suspended under paragraph (1) or (2) shall be not less than 1 week or more than 3 months, except that, where in consequence of a conviction such as is mentioned in paragraph (2)(a)(ii) a prohibition order or emergency prohibition order is made under Article 10 or 11 of the said Order of 1991 prohibiting the holder of a licence from using the licensed premises for the purposes of a food business which is or includes the business authorised by the licence, the licence may be suspended for the period during which the order is in force.

(5) The suspension of a licence under paragraph (1) or (2) shall be in addition to any other penalty which may be imposed by the court.

(6) Article 72(5) shall apply where a court suspends a licence under paragraph (1) or (2) as it applies where a court suspends a licence under that Article.

(7) A licence may be suspended under paragraph (1) or (2) for any period notwithstanding that it is due to expire before the commencement of, or during, that period.

#### **Penalty for opening licensed premises during period of suspension**

**74.** Where the holder of a licence himself or by his servant or agent sells intoxicating liquor or makes it available for purchase in the premises or permits it to be consumed in the premises—

- (a) on any day on which the licence for the premises is suspended, or
- (b) in the case of premises to which an order under Article 73(3) applies, outside the permitted hours specified in Article 42(1),

he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding 6 months or to both and the court shall order the licence to be suspended for a period or, as the case may be, an additional period of not less than 1 month or more than 1 year.

#### **Procedure in connection with suspension**

**75.—(1)** Where the holder of a licence is charged with an offence under—

- (a) any provision of this Order, or
- (b) the Food Safety (Northern Ireland) Order 1991, where the offence was committed in or in relation to the licensed premises, or
- (c) the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 where the offence was committed in the licensed premises, or
- (c) section 13 of the Criminal Law Amendment Act 1885,

the court may require the register of licences in which particulars of the licence are recorded, or a copy of the entries therein relating to the licence, to be produced for inspection by the court before passing sentence.

(2) A court which suspends a licence or makes an order under Article 73(3) shall order the holder of the licence to deliver it to the clerk of the court within a period specified in the order, unless it has already been so delivered and has not been returned under paragraph (3); and if he contravenes the order he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale or to imprisonment for a term not exceeding 3 months or to both.

- (3) The clerk of a court to whom a licence is delivered under paragraph (2) shall—
- (a) if he is not the clerk of petty sessions who keeps the register in which particulars of the licence are recorded, send the licence to that clerk of petty sessions; or
  - (b) subject to paragraph (4) if he keeps that register, retain the licence;

and the licence shall not be returned to the holder of the licence until the end of the period of suspension.

(4) The clerk of petty sessions who keeps the register as mentioned in paragraph (3) shall, in the case of a licence for premises with respect to which an order under Article 73(3) applies, note the effect of the order and the period for which it has effect on the licence.

#### **Appeals against suspension of licence, etc.**

76.—(1) Where a licence is suspended under Article 72 and the holder of the licence appeals, the licence shall continue in force until the appeal is determined or abandoned.

(2) Where on conviction of an offence a licence is suspended or an order under Article 73(3) is made the suspension or, as the case may be, the order shall not take effect—

- (a) until the expiry of the time for bringing an appeal against the conviction or against the suspension or as the case may be, the making of the order, and
- (b) if such an appeal is brought, until the appeal has been determined or abandoned.

## 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.

*N.H. Nicholls*  
Clerk of the Privy Council

## SCHEDULES

### SCHEDULE 1

Articles 7, 9, 77, 85, Schedule 3.

#### APPLICATIONS FOR THE GRANT OF LICENCES

### PART I

#### GRANT OF LICENCES

1. A person who intends to make an application for the grant of a licence shall—

- (a) not more than 6 weeks nor less than 2 weeks before the time of the opening of the court sittings at which the application is to be made, cause notice of the application to be published at least once in 2 newspapers circulating in the vicinity of the premises for which the licence is to be sought;
- (b) during the 3 weeks before that time, cause notice of the application to be displayed on or near the premises for which the licence is to be sought;
- (c) not less than 3 weeks before that time, serve notice of the application upon the chief clerk and at the same time serve a copy of the notice upon—
  - (i) the sub-divisional commander of the police sub-division in which the premises are situated;
  - (ii) where the applicant resides in some other police sub-division, upon the sub-divisional commander of that sub-division;
  - (iii) the district council for the district in which the premises are situated.

2. The notices mentioned in paragraph 1 shall specify the kind of premises for which the licence is sought and the name of the owner of the premises and shall be in such form and, without prejudice to paragraph 3, shall contain such other information as may be prescribed by county court rules.

3.—(1) The applicant shall attach to—

- (a) the notice mentioned in paragraph 1(c), and
- (b) the copy of that notice which is served upon the sub-divisional commander of the police sub-division in which the premises are situated and upon the district council,

a plan of the premises for which the licence is sought.

(2) The plan mentioned in sub-paragraph (1) shall clearly delineate by appropriate colourings or markings and a legend or key thereto—

- (a) except in the case of an hotel, the part or parts of the premises in which intoxicating liquor is to be sold;
- (b) in the case of an hotel, any public or common part or parts of the premises in which intoxicating liquor is to be sold, any part of the hotel which is set apart for the service of main table meals or for the service of intoxicating liquor and other beverages to diners before or after such meals being clearly distinguished; and

- (c) where the subsisting licence, if any, proposed to be surrendered under Article 7(4)(e)(ii) is for premises which are or are to be extended, used or demolished as mentioned in paragraph 2(a)(iv) to (vi) of Schedule 2, the extent of those premises.

4. A sub-divisional commander upon whom notice is required by paragraph 1 to be served, the district council mentioned in that paragraph or any person owning, or residing or carrying on business in, premises in the vicinity of the premises for which the licence is sought may appear at the hearing of the application and object to the grant of the licence on any ground mentioned in Article 7(4) (a) to (e)(i).

5. Any person having an estate in the premises specified in any subsisting licence which is proposed to be surrendered under Article 7(4)(e)(ii) may appear at the hearing of the application and object to the surrender of that licence.

6. A person intending to object under paragraph 4 or 5 shall, not less than 1 week before the time of the opening of the court sittings at which the application is to be made,—

- (a) serve upon the applicant notice of his intention to object, briefly stating his grounds for so doing;
- (b) serve a copy of the notice upon the chief clerk.

7. A person who intends to make an application for an order under Article 43, 44 or 48 or for a children's certificate at the same time as the application for the grant of a licence shall include in the notices mentioned in paragraph 1 notice of the application for that order or, as the case may be, the children's certificate.

## PART II

### PROVISIONAL GRANT OF LICENCES

8. Part I shall apply in relation to an application for the provisional grant of a licence as if—

- (a) references to the grant of a licence were references to the provisional grant of a licence;
- (b) where the application relates to premises about to be constructed, or in the police sub-division or the district in which the premises are situated were references to the vicinity, the site of the premises, the police sub-division or the district in which the premises are to be situated;
- (c) references to a plan of the premises were references to a plan of the premises as they will be when their construction, alteration or extension has been completed;
- (d) where the application is for the provisional grant of a licence of a kind mentioned in Article 5(1)(a) for premises in which it is intended to provide accommodation for guests or for an hotel or a guest house, in paragraph 1 (c) at the end there were added "(iv) the Northern Ireland Tourist Board.";
- (e) in paragraphs 3(2)(c) and 5, the reference to Article 7(4)(e)(ii) included references to Article 9(4)(c).

9. Article 7(4)(a) to (e)(i) shall apply in relation to an application for the provisional grant of a licence as if—

- (a) in sub-paragraph (c) after the word "are" there were inserted the words "or will be";
- (b) in sub-paragraph (d) after the word "premises" in the first place where it occurs there were inserted the words "or proposed premises";
- (c) in sub-paragraph (e)(i) after the word "premises" in the second place where it occurs there were inserted the words "or proposed premises".

**10.** Where an application for the provisional grant of a licence is made by a housing authority, Part I and Article 7(4) shall apply as if—

- (a) in Part I, in paragraph 1, sub-paragraph (c)(ii) were omitted;
- (b) in Article 7(4), sub-paragraph (b) were omitted.

### PART III

#### APPLICATION TO HAVE PROVISIONAL GRANT OF LICENCES DECLARED FINAL

**11.** A person who intends to make an application to have the provisional grant of a licence declared final shall, not less than 3 weeks before the time of the opening of the court sitting at which the application is to be made, serve notice of the application upon the chief clerk and at the same time serve a copy of the notice upon—

- (a) the sub-divisional commander of the police sub-division in which the premises are situated;
- (b) where the applicant resides in some other police sub-division, upon the sub-divisional commander of that sub-division;
- (c) the district council for the district in which the premises are situated.

**12.** The notice mentioned in paragraph 11 shall be in such form and shall contain such information as may be prescribed by county court rules

**13.** A sub-divisional commander upon whom notice is required by paragraph 11 to be served or the district council mentioned in that paragraph may appear at the hearing of the application and object to the grant of the licence being declared final on the ground—

- (a) that the applicant is not a fit person to hold a licence; or
- (b) that the premises have not been completed in accordance with the plans deposited under Part I as modified by Part II or in accordance with those plans with modifications consented to under Article 9(6)

**14.** A person intending to object under paragraph 13 shall not less than 1 week before the time of the opening of the court sitting at which the application is to be made,—

- (a) serve upon the applicant notice of his intention to object;
- (b) serve a copy of the notice upon the chief clerk

**15.** Before or at the hearing of the application to have the provisional grant of a licence declared final, the applicant shall deposit the licence with the chief clerk.

#### SCHEDULE 2

Articles 7, 18, 29, 40, Schedule 1.

#### MEANING OF “SUBSISTING LICENCE”

**1.** Except in the circumstances mentioned in paragraph 2 or 3, a licence shall be treated as a subsisting licence only if the business authorised by the licence has been regularly carried on throughout, or for a substantial part of, the year immediately preceding the date of its surrender or, where the licence has not been in force for a year, the period from the date when it was granted to the date of its surrender.

**2.** Notwithstanding anything in paragraph 1, a licence shall be treated as a subsisting licence if—

- (a) the premises specified in it—
    - (i) have, by reason of fire, tempest, or other unforeseen and unavoidable calamity, become incapable of being used for the business carried on in them under the licence; or
    - (ii) have ceased, or are likely to cease, by reason of the termination of a tenancy or an alteration in the terms of a tenancy (whether under a lease or otherwise), to be available for the business carried on in them under the licence; or
    - (iii) have been, or are likely to be, acquired or demolished, either wholly or to a substantial extent, under any statutory provision; or
    - (iv) have been, or are to be, extended to include other premises which are, or are to be constructed so as to be, contiguous to them; or
    - (v) are, or are to be, used for the purpose of the same business in conjunction with other additional premises which are or are to be constructed adjacent to them; or
    - (vi) have been, or are to be, wholly or substantially demolished and new premises have been or are to be constructed wholly or partly within their curtilage; and
  - (b) where sub-paragraph (a)(iv), (v) or (vi) applies, the business carried on under the licence has been interrupted for the purpose of enabling the extension, demolition or construction to be carried out; and
  - (c) the application for the new licence has been made within a reasonable period.
3. Notwithstanding anything in paragraph 1, a licence shall be treated as a subsisting licence if the business carried on under it has been interrupted by reason only of the suspension of the licence.

### SCHEDULE 3

Articles 2, 10, 85.

#### APPROVAL OF SITES, DISPOSAL OF SITES OR PREMISES AND GRANT OF LICENCES FOR PREMISES ON APPROVED SITES

### PART I

#### APPROVAL OF SITES

##### *Interpretation*

1. In this Schedule—
- “approved sites” has the meaning assigned to it by paragraph 4(1);
  - “the area” means the area in which the sites are situated;
  - “declaration” means a declaration under paragraph 4;
  - “the Department” means the Department of the Environment;
  - “preferred applicant” has the meaning assigned to it by paragraph 9(2);
  - “proposed re-development area” means an area in respect of which a resolution has been passed under section 8 of the Housing Act (Northern Ireland) 1956 or an area declared to be a proposed re-development area under Article 47 of the Housing (Northern Ireland) Order 1981;
  - “re-development area” means an area in respect of which a re-development scheme has been approved by the Department under Article 49 of the Housing (Northern Ireland) Order 1981.

### *Proposals as to sites*

2.—(1) A housing authority who proposes to make an application for a declaration with respect to any sites shall submit to the Department proposals as to the number and situation of those sites and as to the kind of premises that may be erected on those sites.

(2) Where the proposals relate to sites in a re-development area or proposed re-development area, the number of sites shall not exceed the number of licensed premises in the area at the time of the submission of the re-development scheme.

(3) The Department may approve, with or without modification, proposals made to it under sub-paragraph (1) and shall notify the housing authority accordingly.

(4) The housing authority may request the Department to approve modifications of proposals which have been approved under this paragraph and the Department may approve the modifications.

### *Applications*

3.—(1) A housing authority who intends to make an application for a declaration shall—

(a) not more than 6 weeks nor less than 2 weeks before the time of the opening of the court sittings at which the application is to be made cause notice of the application to be published at least once in 2 newspapers circulating in the vicinity of the area;

(b) not less than 3 weeks before that time serve notice of the application upon the chief clerk and at the same time serve a copy of the notice upon—

(i) the sub-divisional commander of each police sub-division in which the area, or any part of it, is situated;

(ii) the district council for each district in which the area, or any part of it, is situated.

(2) The notices mentioned in sub-paragraph (1) shall be in such form and contain such information as may be prescribed by county court rules.

(3) A sub-divisional commander upon whom notice is required by sub-paragraph (1)(b) to be served, the district council mentioned in that sub-paragraph or any person owning, or residing or carrying on business in, premises in the vicinity of the area, may appear and object to the issue of a declaration with respect to any site.

(4) A person intending to object under sub-paragraph (3) shall not less than 1 week before the time of the opening of the court sitting at which the application is to be made—

(a) serve upon the housing authority notice of his intention to object, briefly stating his grounds for so doing;

(b) serve a copy of the notice upon the chief clerk.

(5) At the hearing of the application, the housing authority shall furnish such further information as to the proposed development or re-development of the area, in such detail, as the court may require.

### *Declarations*

4.—(1) Where proposals made under paragraph 2 by a housing authority have been approved by the Department, the county court on application made to it by that housing authority under Article 10(1) may, after hearing the objections, if any, made under paragraph 3, issue a declaration that the court approves the sites or any of them as sites for licensed premises of a kind or kinds specified in the declaration (in this Schedule referred to as the “approved sites”).

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

(2) Where proposals approved under sub-paragraph (3) of paragraph 2 are modified under sub-paragraph (4) thereof, the county court on the application of the housing authority may make a fresh declaration.

(3) An application for a declaration may be made to the county court for any division in which the area is wholly or partly situated.

#### *Duration of declaration*

5.—(1) A declaration shall, subject to sub-paragraph (2) remain in force for such period as is specified in the declaration or, where no period is so specified, for a period of 10 years from the date of the issue of the declaration.

(2) At any time, whether before or after the expiration of the period for which a declaration is in force, the county court, on application made to it by the housing authority or by any person who has acquired a site specified in the declaration, may, after hearing the objections, if any, made by virtue of sub-paragraph 3(3), order—

- (a) where the application is made by the housing authority, that the declaration shall continue to be in force in relation to all the sites specified in the declaration or to such of those sites as the court thinks fit; or
- (b) where the application is made by a person who has acquired an estate in a site specified in the declaration, that the declaration shall continue to be in force in relation to that site,

for such period as the court thinks fit.

(3) Paragraph 3 shall apply in relation to applications for orders under sub-paragraph (2) as if references to a declaration were references to such an order and as if references to a housing authority included references to a person who has acquired an estate in a site with respect to which an application under sub-paragraph (2) is proposed to be made.

#### *Effect of declaration*

6. Where a declaration is in force approving any site as a site for licensed premises of a kind mentioned in Article 5(1)(a) or (b) and an application is made for the grant or provisional grant of a licence for premises of that kind which have been, or are proposed to be, erected on that site, Article 7(4)(e)(i) shall not apply.

## PART II

### DISPOSAL OF APPROVED SITES OR PREMISES IN RE-DEVELOPMENT AREAS

#### *Application of this Part*

7. This Part applies where sites in a re-development area or proposed re-development area have been approved under paragraph 4(1).

#### *Power to dispose of sites or premises*

8. The housing authority may dispose of—
- (a) the approved sites; or
  - (b) premises erected on the approved sites,

in accordance with the provisions of this Part.

*Acquisition of sites or premises by persons dispossessed of licences*

**9.**—(1) The housing authority shall serve on every person who has been, or in the opinion of the housing authority will be, dispossessed of a licence in consequence, whether directly or indirectly, of the acquisition by the housing authority of the premises to which the licence relates or of the carrying out of the re-development scheme, or, where any such person has died, on his personal representative or on any other person who is entitled in consequence of his death to a beneficial interest in the business carried on in the licensed premises, a notice—

- (a) describing the approved sites and referring to the declaration by which they were approved;
- (b) stating whether or not the authority propose to erect premises on the sites;
- (c) inviting offers in writing from those persons for the purchase or, if the housing authority think fit, the lease of any of those sites or premises;
- (d) specifying the period (not being less than 2 months from the date on which the notice is served) within which offers may be made.

(2) A person entitled to receive a notice under sub-paragraph (1) is in this Schedule referred to as a “preferred applicant”.

(3) After the expiration of the period during which offers may be made as mentioned in sub-paragraph (1)(d), the housing authority may, with the approval of the Department, dispose of a site or premises on that site to any preferred applicant who has made an offer for that site or those premises within that period.

(4) Without prejudice to its right to refuse its approval to the disposal under this paragraph of any approved site or premises, the Department shall—

- (a) refuse to approve the disposal of the site or premises to any preferred applicant for a consideration which is less than the fair value thereof;
- (b) refuse to approve the disposal to a preferred applicant of a greater number of sites or premises than the number of licensed premises in respect of which he has been or will be dispossessed of licences in consequence, whether directly or indirectly, of the acquisition of the licensed premises or the carrying out of the re-development scheme.

*Disposal of remaining sites or premises, if any*

**10.**—(1) Where, after steps have been taken by a housing authority in accordance with the provisions of paragraph 9, any sites or premises have not been disposed of to preferred applicants, the housing authority shall cause to be published in 2 successive weeks in at least 1 newspaper circulating in the vicinity of those sites or premises a notice—

- (a) describing those sites or premises and referring to the declaration under paragraph 4(1);
- (b) inviting offers in writing for the purchase or, if the housing authority think fit, the lease of any one of those sites or premises;
- (c) specifying the period (not being less than 2 months from the date of the last publication of the notice) within which offers may be made.

(2) After the expiration of the period during which offers may be made as mentioned in sub-paragraph (1)(c), the housing authority may, with the approval of the Department, dispose of the sites or premises to persons making offers therefor within that period.

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

*Contracts as to sites*

11. A contract for the acquisition from a housing authority of an estate in an approved site or premises erected thereon may be subject to such conditions as the housing authority, with the approval of the Department, may determine including, but without prejudice to the generality of the foregoing words, a condition that the contract shall be voidable at the option of the person acquiring the estate if he does not for any reason, or within any period specified in the contract, obtain the grant of a licence for premises on the site or, as the case may be, for those premises.

*Procedure where contract cancelled, etc*

12. Where a contract for the acquisition of an estate in an approved site or in premises on such a site is terminated, the housing authority shall—

- (a) where the other party to the contract was a preferred applicant, dispose of the site or premises in accordance with paragraph 9, or, if the site is, or premises are, not disposed of in accordance with that paragraph, dispose of it or them in accordance with paragraph 10;
- (b) where the other party to the contract was not a preferred applicant, dispose of the site or premises in accordance with paragraph 10.

*Transfer of land between housing authorities*

13. Where a housing authority disposes of land within a re-development area to any other housing authority, that other authority shall, in relation to the land, have the like powers and be subject to the like duties as are imposed on the first-mentioned authority by the foregoing provisions of this Schedule.

**PART III  
EXPENSES**

*Financial provisions*

14. Any increase attributable to any provision of this Order in sums which under any other statutory provision are payable out of money charged on and issued out of the Consolidated Fund may be defrayed in the same manner as those sums are by that statutory provision authorised or required to be defrayed and any statutory provision as to the borrowing of money for the purpose of providing such sums shall apply accordingly.

**SCHEDULE 4**

Articles 14, 15, 16, 23, 85.

**APPLICATIONS FOR THE RENEWAL OF LICENCES**

**PART I  
GENERAL PROCEDURE**

1. The Department shall, during the month of July in each year, cause notice that licences which expire on 30th September in that year are due for renewal during the month of September to be published at least once in 2 newspapers circulating throughout Northern Ireland.

2. The clerk of petty sessions for each petty sessions district shall, not less than 6 weeks before the renewal date, cause notice of that date and of the provisions of paragraph 6 to be published in 2 newspapers circulating in that district.

3. A person who intends to make an application for the renewal of a licence for any premises shall, not less than 3 weeks before the renewal date, serve notice of the application upon the clerk of petty sessions for the petty sessions district in which the premises are situated and at the same time serve a copy of the notice upon—

- (a) the sub-divisional commander of the police sub-division in which the premises are situated;
- (b) where the applicant resides in some other police sub-division, upon the sub-divisional commander of that sub-division;
- (c) the district council for the district in which the premises are situated.

4. The notices mentioned in paragraph 3 shall specify the kind of premises for which the renewal of the licence is sought and shall be in such form and contain such other information as may be prescribed by magistrates' courts rules.

5. A sub-divisional commander upon whom notice is required by paragraph 3 to be served, the district council mentioned in that paragraph or any person owning, or residing or carrying on business in, premises in the vicinity of the premises for which the renewal of the licence is sought may appear at the hearing of the application and object to the renewal of the licence on any ground mentioned in Article 132).

6. A person intending to object under paragraph 5 shall not less than 1 week before the renewal date,—

- (a) serve upon the applicant notice of his intention to object, briefly stating his grounds for so doing;
- (b) serve a copy of the notice upon the clerk of petty sessions.

7. Before the renewal date, the applicant shall deposit the licence with the clerk of petty sessions.

## PART II

### PROCEDURE FOR RENEWALS OUT OF TIME

8. Part I shall apply in relation to an application under Article 16 or 23(1) for the renewal of a licence as if—

- (a) where the application is made under Article 16
  - (i) paragraphs 1 and 2 were omitted;
  - (ii) in paragraphs 3, 6 and 7 references to the renewal date were references to the time of the court sitting at which the application is to be made;
- (b) where the application is made under Article 23(1)—
  - (i) paragraphs 1 and 2 were omitted;
  - (ii) in paragraph 3 for “not less than 3 weeks before the renewal date” there were substituted—
    - (a) not more than 6 weeks nor less than 2 weeks before the time of the court sitting at which the application is to be made, cause notice of the application to be published at least once in 2 newspapers circulating in the vicinity of the premises for which the transfer is sought;

- (b) not less than 3 weeks before that time;
- (iii) in paragraphs 6 and 7 references to the renewal date were references to the time of the court sitting at which the application is to be made; and the requirements of this Schedule shall be taken to be satisfied if the notices mentioned in paragraphs 3 and 6(a) were served by and upon either the holder of the licence or the person who intends to make application for the transfer.

## SCHEDULE 5

Articles 22(4), (5), 85(1).

### APPLICATIONS FOR THE TRANSFER OF LICENCES

#### PART I

#### TRANSFER OF LICENCES

1. A person who intends to make an application for the transfer of a licence shall—
  - (a) not more than 6 weeks nor less than 2 weeks before the time of the court sitting at which the application is to be made, cause notice of the application to be published at least once in 2 newspapers circulating in the vicinity of the premises for which the transfer is sought;
  - (b) not less than 3 weeks before that time, serve notice of the application upon the clerk of petty sessions and at the same time serve a copy of the notice upon—
    - (i) the sub-divisional commander of the police sub-division in which the premises are situated;
    - (ii) where the applicant resides in some other police sub-division, upon the sub-divisional commander of that sub-division;
    - (iii) the district council for the district in which the premises are situated.
2. The notices mentioned in paragraph 1 shall specify the kind of premises for which the transfer of the licence is sought and shall be in such form and contain such other information as may be prescribed by magistrates' courts rules.
3. A sub-divisional commander upon whom notice is required by paragraph 1 to be served, the district council mentioned in that paragraph or any person owning, or residing or carrying on business in, premises in the vicinity of the premises for which the transfer of the licence is sought may appear at the hearing of the application and object to the transfer of the licence on any ground mentioned in Article 22(6).
4. A person intending to object under paragraph 3 shall, not less than 1 week before the time of the court sitting at which the application is to be made,—
  - (a) serve upon the applicant notice of his intention to object, briefly stating his grounds for so doing;
  - (b) serve a copy of the notice upon the clerk of petty sessions
- 5.—(1) Before or at the hearing of the application for the transfer of a licence, the applicant shall deposit the licence with the clerk of petty sessions.  
(2) Where the applicant has not possession of the licence and the court has reason to believe that the licence is in the possession of some other person the court may order that person to deposit it with the clerk within a period specified in the order and if he contravenes the order without reasonable

excuse he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale or to imprisonment for a term not exceeding 3 months or to both.

## PART II

### TRANSFER OF LICENCES PROVISIONALLY GRANTED

6. Part I shall apply in relation to an application for the transfer of a licence provisionally granted as if, where the application relates to a licence for premises about to be constructed or in the course of construction, references to the vicinity, the police sub-division or the district in which the premises are situated were references to the vicinity, the police sub-division or the district in which the premises are to be situated.

7. Article 22(6) shall apply in relation to an application for the transfer of a licence provisionally granted as if sub-paragraph (c) were omitted.

### SCHEDULE 6

Articles 26, 29, 34, 85.

#### APPLICATIONS FOR PROTECTION ORDERS AND AUTHORISATIONS OF TEMPORARY CONTINUANCE OF BUSINESSES

1. In this Schedule “application” means an application for—

- (a) a protection order; or
- (b) an order authorising the temporary continuance of a business in premises other than those specified in a licence.

2. A person who intends to make an application shall, not less than 4 days before the time of the court sitting at which the application is to be made, serve notice of the application upon the clerk of petty sessions and at the same time serve a copy of the notice upon the sub-divisional commander of the police sub-division in which the premises to which the application relates are situated.

3. The notice mentioned in paragraph 2 shall specify the kind of premises to which the application relates and shall be in such form and, without prejudice to paragraph 4, shall contain such other information as may be prescribed by magistrates' courts rules

4.—(1) Where the application is for an order authorising the temporary continuance of a business in any premises, the applicant shall attach to—

- (a) the notice mentioned in paragraph 2, and
- (b) the copy of that notice which is served upon the sub-divisional commander,

a plan of the premises for which the authorisation is sought.

(2) The plan mentioned in sub-paragraph (1) shall clearly delineate by appropriate colourings or markings and a legend or key thereto the part or parts of the premises, or, in the case of an hotel, any public or common part or parts of the premises, in which intoxicating liquor is to be sold.

5. The sub-divisional commander upon whom notice is required by paragraph 2 to be served may appear at the hearing of the application and object to the making of the protection order or, as the case may be, the authorisation of the temporary continuance of the business in the premises in question.

6. The court may consider the application, notwithstanding that the procedure set out in this Schedule has not been complied with if, having regard to the circumstances, it is reasonable to do so.

## SCHEDULE 7

Articles 30, 85.

### APPLICATIONS FOR OCCASIONAL LICENCES

1. In this Schedule “licence” means an occasional licence.
2. A person who intends to make an application for the grant of a licence shall, not less than 2 weeks before the time when he wishes the application to be considered, serve notice of the application upon the clerk of petty sessions and at the same time serve a copy of the notice upon—
  - (a) the sub-divisional commander of the police sub-division in which the place or premises to which the application relates is or are situated; and
  - (b) the district council for the district in which the place or premises is or are situated.
3. Where a person owning, or residing or carrying on business in, premises in the vicinity of the place specified in an occasional licence has served upon the sub-divisional commander of the police sub-division in which that place is situated a caution stating that the cautioner wishes to be heard by the court on the next following, if any, application for an occasional licence in connection with a function to be held at that place the sub-divisional commander shall notify the cautioner of the application and of the time and place of the hearing.
4. The notice mentioned in paragraph 2 shall be in such form and shall contain such information as may be prescribed by magistrates' courts rules.
5. The sub-divisional commander mentioned in paragraph 2(a), the district council mentioned in paragraph 2(b) and any cautioner who has been given notice of the application under the provisions of paragraph 3, may appear at the hearing of the application and object to the granting of the licence on either of the following grounds—
  - (a) that functions held at the place or premises to which the application relates have been conducted so as to cause undue inconvenience to persons residing in the vicinity of that place or, as the case may be, those premises; or
  - (b) that terms and conditions imposed under Article 30(12)(c) in respect of a previous occasional licence in respect of that place or those premises were not complied with.
6. The court may consider the application, notwithstanding that the procedure set out in this Schedule has not been complied with if, having regard to the circumstances, it is reasonable to do so.

## SCHEDULE 8

Articles 31, 34, 85.

### APPLICATIONS AND NOTICES UNDER ARTICLE 31

#### PART I

#### APPLICATIONS FOR CONSENT TO ALTERATIONS

1. In this Part “application” means an application under Article 31(1)(i).
2. A person who intends to make an application shall, not less than 3 weeks before the time of the opening of the court sittings at which the application is to be made, serve notice of the application upon the chief clerk and at the same time serve a copy of the notice upon—
  - (a) the sub-divisional commander of the police sub-division in which the premises are situated; and
  - (b) the person whose name is recorded in the register of licences as the owner of the premises.

3. The notice mentioned in paragraph 2 shall specify the kind of premises to which the application relates and shall be in such form and, without prejudice to paragraph 4, shall contain such other information as may be prescribed by county court rules.

4. The applicant shall attach to—

- (a) the notice mentioned in paragraph 2, and
- (b) the copy of that notice which is served upon the sub-divisional commander,

a plan of the premises showing the proposed alteration.

5. The sub-divisional commander upon whom notice is required by paragraph 2 to be served or the person mentioned in paragraph 2(b), may appear at the hearing of the application and object to the court making an order consenting to the alteration to which the application relates.

6. A person intending to object under paragraph 5 shall, not less than 1 week before the time of the opening of the court sitting at which the application is to be made,—

- (a) serve upon the applicant notice of his intention to object, briefly stating his grounds for so doing;
- (b) serve a copy of the notice upon the chief clerk.

## PART II

### NOTICES OF ALTERATIONS REQUIRED BY AUTHORITIES

7. The notice shall specify the kind of premises to which it relates and shall be in such form and, without prejudice to paragraph 8, shall contain such other information as may be prescribed by magistrates' courts rules

8.—(1) The holder of the licence shall attach to the notice a plan of the premises showing the proposed alterations.

(2) The alterations shown in the plan mentioned in sub-paragraph (1) shall be authenticated by or on behalf of the authority in question in the manner prescribed by magistrates' courts rules.

### SCHEDULE 9

Articles 43, 44, 48, 59, 85

#### APPLICATIONS UNDER ARTICLE 43, 44, 48 OR 59

1. In this Schedule “application” means an application under Article 43,44, 48 or 59.

2. A person who intends to make an application shall, not less than 3 weeks before the time of the court sitting at which the application is to be made, serve notice of the application upon the clerk of petty sessions and at the same time serve a copy of the notice upon—

- (a) the sub-divisional commander of the police sub-division in which the premises to which the application relates are situated; and
- (b) the district council for the district in which the premises to which the application relates are situated.

3. The notice mentioned in paragraph 2 shall specify the kind of premises to which the application relates and shall be in such form and shall contain such information as may be prescribed by magistrates' courts rules.

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

4. The sub-divisional commander mentioned in paragraph 2(a), the district council mentioned in paragraph 2(b) or any person owning or residing in premises in the vicinity of the premises to which the application relates may appear at the hearing of the application and object to the court making an order or, as the case may be, the grant of the certificate—
  - (a) in the case of an application under Article 43, on any ground mentioned in Article 43(2);
  - (b) in the case of an application under Article 44, on any ground mentioned in Article 44(1) and (3);
  - (c) in the case of an application under Article 48, on any ground mentioned in Article 48(2);
  - (d) in the case of an application under Article 59, on any ground mentioned in Article 59(2).
5. A person intending to object under paragraph 4 shall, not less than 1 week before the time of the court sitting at which the application is to be made,—
  - (a) serve upon the applicant notice of his intention to object, briefly stating his grounds for so doing; and
  - (b) serve a copy of the notice upon the clerk of petty sessions.
6. The court may consider the application notwithstanding that the procedure set out in this Schedule has not been complied with if, having regard to the circumstances, it is reasonable to do so.

#### SCHEDULE 10

Articles 47, 85.

#### APPLICATIONS FOR EXTENSION LICENCES

1. In this Schedule “licence” means an extension licence.
2. A person who intends to make an application for the grant of a licence shall, not less than 2 weeks before the time when he wishes the application to be considered, serve notice of the application upon the clerk of petty sessions and at the same time serve a copy of the notice upon—
  - (a) the sub-divisional commander of the police sub-division in which the premises to which the application relates are situated; and
  - (b) the district council for the district in which the premises are situated.
3. The notice mentioned in paragraph 2 shall be in such form and shall contain such information as may be prescribed by magistrates' courts rules.
4. The sub-divisional commander mentioned in paragraph 2(a) and the district council mentioned in paragraph 2(b) may appear at the hearing of the application and object to the granting of the licence.
5. A person intending to object under paragraph 4 shall, not later than such time as may be specified in the notice as the time when the applicant wishes the application to be considered, serve upon the applicant and the clerk of petty sessions notice of his intention to object, briefly stating his grounds for so doing.
6. The court or, as the case may be, the clerk of petty sessions, may consider the application notwithstanding that the procedure set out in this Schedule has not been complied with if, having regard to the circumstances, it is reasonable to do so.

SCHEDULE 11

Article 85(2).

AMENDMENTS

*The Probation Act (Northern Ireland) 1950 (c. 7)*

1. In Schedule 1 (offences in respect of which probation orders or orders for conditional discharge cannot be made), for paragraph 5 substitute—

“5. An offence under Article 5(6), 41(1)(a), 50(1), 51(3), 55,60(1) or 74 of the Licensing (Northern Ireland) Order 1996.”.

*The Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 (1985 NI 11)*

2. In Article 12(4)(h) (grant of bookmaking office licences) for “Licensing Act (Northern Ireland) 1971” substitute “Licensing (Northern Ireland) Order 1996”.

3. In Article 32(14) (conduct of licensed bookmaking offices) for “Licensing Act (Northern Ireland) 1971” substitute “Licensing (Northern Ireland) Order 1996”.

4. In Article 107 (gaming machines restricted from certain premises)—

(a) in paragraph (1) for “Licensing Act (Northern Ireland) 1971” substitute “Licensing (Northern Ireland) Order 1996”;

(b) in paragraphs (4), (5)(b) and (8)(b) for “that Act of 1971” substitute “that Order of 1996”;

(c) in paragraphs (5)(b) and (8)(b) for “that Act” substitute “that Order”;

(d) in paragraph (8)(b) for “section 34 of that Act” substitute “Article 34 of that Order”.

5. In Article 108 (use of gaming machines on other premises)—

(a) in paragraph (1)(b) for “Licensing Act (Northern Ireland) 1971” substitute “Licensing (Northern Ireland) Order 1996”;

(b) in paragraph (4)—

(i) for the words from “section 5(5A)” to “1971” substitute “Article 7(13) or, as the case may be, Article 15(6) of the Licensing (Northern Ireland) Order 1996”;

(ii) for “that Act” substitute “that Order”.

6. In Article 182(2)(b) (forfeiture of gaming machine as statutory consequence of conviction)—

(a) for “Licensing Act (Northern Ireland) 1971” substitute “Licensing (Northern Ireland) Order 1996”;

(b) for “Act of 1971” substitute “Order of 1996”.

*The Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985 (NI 15)*

7. In Article 5(2)(a) (closing orders with respect to premises supplying meals or refreshments) for “Licensing (Northern Ireland) Order 1990” substitute “Licensing (Northern Ireland) Order 1996”.

8. In paragraph 10(4)(a) of Schedule 1 for “Licensing (Northern Ireland) Order 1990” substitute “Licensing (Northern Ireland) Order 1996”.

*The Tourism (Northern Ireland) Order 1992 (1992 NI 3)*

9. In Article 12(3) (categories of tourist establishment) for “1990” substitute “1996”.

*The Business Tenancies (Northern Ireland) Order 1996 (1996 NI 5)*

10. In Article 18(2)(d) (rent due under new tenancy to disregard any value attributable to the licence) for “1990” substitute “1996”.

SCHEDULE 12

Article 85(3).

TRANSITIONAL PROVISIONS AND SAVINGS

1.—(1) Where, immediately before 15th June 1990, the authority conferred by a licence was limited to the sale of intoxicating liquor of a particular kind or kinds, and that licence was, by virtue of paragraph 1(1) of Schedule 12 to the Licensing (Northern Ireland) Order 1990 on and after that date, authority for the sale of intoxicating liquor of any kind, then, notwithstanding the repeal of that paragraph 1(1) by Article 85(4) and Schedule 13, that licence shall continue to be authority for the sale of intoxicating liquor of any kind.

(2) Where, immediately before 15th June 1990, more than one licence limited as mentioned in sub-paragraph (1) was in force for any premises, and those licences were, by virtue of paragraph 1(2) of Schedule 12 to the Order of 1990 on and after that date, deemed to be a single licence, then, notwithstanding the repeal of that paragraph 1(2) by Article 85(4) and Schedule 13, those licences shall continue to be deemed to be a single licence.

2.—(1) Where, notwithstanding sections 23 and 24 of the Licensing Act (Northern Ireland) 1971 or Articles 28 and 29 of the Licensing (Northern Ireland) Order 1990, during the period from 3rd May 1971 until 15th July 1992, in connection with any licence, more than one protection order has been made in favour of a person, other than a person to whom section 24(2) of that Act or, as the case may be, Article 29(2) of that Order applies (protection order made to carry on business under licence where holder of licence has become incapable through illness or other infirmity),—

- (a) any such second, and if the case so requires, subsequent protection order made in favour of that person shall be deemed to have been validly made; and
- (b) any renewal or transfer of the licence during that period, and any licence granted or issued on the surrender of the licence during that period, shall be valid and effective.

(2) Where, during the period from 3rd May 1971 until 15th July 1992, in connection with any licence,—

- (a) notwithstanding sections 23 and 24 of the Licensing Act (Northern Ireland) 1971 or Articles 28 and 29 of the Licensing (Northern Ireland) Order 1990, one or more than one protection order has been made in favour of a person on whom authority to carry on business under the licence has been conferred by section 25(1) of that Act or Article 30(1) of that Order (temporary continuance on death, bankruptcy, etc.); or
- (b) that person has carried on business under the licence by virtue of that section 25(1) or Article 30(1) for an indefinite period,

then—

- (i) any such protection order and, if the case so requires, subsequent Y protection order shall be deemed to have been validly made; and
- (ii) any renewal or transfer of the licence during that first-mentioned period, and any licence granted or issued on the surrender of the licence during that first-mentioned period, shall be valid and effective.

3. The provisions in this Schedule shall have effect without prejudice to section 29 of the Interpretation Act (Northern Ireland) 1954.

## SCHEDULE 13

Article 85(4).

## REPEALS

| Chapter or Number | Short title   | Extent of repeal  |
|-------------------|---|---|
| 1990 NI 6.        | The Licensing (Northern Ireland) Order 1990.              | The whole Order.  |
| 1991 c. 31.       | The Finance Act 1991.                                     | In Schedule 2, paragraph 24.  |
| 1991 NI 11.       | The Planning (Northern Ireland) Order 1991.               | In Schedule 5, the entry relating to the Licensing (Northern Ireland) Order 1990. |
| 1992 NI 16.       | The Licensing (Validation) (Northern Ireland) Order 1992. | The whole Order..   |
| 1992 NI 3.        | The Tourism (Northern Ireland) Order 1992.                | Article 27.<br>Schedule 2.<br>In Schedule 3, paragraph (11).                      |

**EXPLANATORY NOTE***(This note is not part of the Order)*

This Order consolidates with amendments the law relating to licences for the sale by retail of intoxicating liquor. The principal amendments are—

- (a) the kinds of premises which may be licensed are extended to include guest houses, conference centres and higher education institutions;
- (b) licences to be valid for up to 5 years;
- (c) the sale of intoxicating liquor is permitted along with other goods;
- (d) the compulsory afternoon break in the permitted hours on a Sunday is abolished;
- (e) the permitted hours for off-licences are extended;
- (f) additional permitted hours may be allowed for licensed premises providing entertainment or food or both and on 20 occasions in any year for other licensed premises without any conditions;
- (g) children, in the company of an adult, are to be allowed in certain licensed premises which are certified in that respect;
- (h) the prohibition on a restaurant having a bar is abolished; and
- (i) licensed premises are permitted to open outside the permitted hours for any purpose which does not involve the sale of intoxicating liquor.