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STATUTORY INSTRUMENTS

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**1996 No. 3158**

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

**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 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.