
STATUTORY INSTRUMENTS

1996 No. 3158

The Licensing (Northern Ireland) Order 1996

PART IV

CONDUCT OF LICENSED PREMISES, ETC.

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.