
STATUTORY RULES OF NORTHERN IRELAND

1997 No. 62

Magistrates' Courts (Licensing) Rules (Northern Ireland) 1997

Part I

Citation and commencement

1. These Rules may be cited as the Magistrates' Courts (Licensing) Rules (Northern Ireland) 1997 and shall come into operation on 20th February 1997.

Revocation

- 2.—(1) The rules set out in paragraph (2) are hereby revoked.
- (2) The rules referred to in paragraph (1) are—
- (a) the Magistrates' Courts (Licensing) Rules (Northern Ireland) 1990(1);
 - (b) the Magistrates' Courts (Licensing) (Amendment) Rules (Northern Ireland) 1992(2).

Interpretation

- 3.—(1) In these rules unless the context otherwise requires,
- “the Order” means the Licensing (Northern Ireland) Order 1996(3); a reference to an Article or Schedule by number is a reference to that Article or Schedule so numbered in the Order, and expressions which are defined in the Order have the same meaning as in the Order.
- (2) Any reference in these rules to a Form by number is a reference to that Form so numbered in the Schedule.
- (3) The notes appended to the Forms do not form any part thereof and are so appended only for the purpose of assisting their proper completion.
- (4) Any reference in these rules to the clerk of petty sessions is a reference to the clerk of petty sessions for the petty sessions district in which the application is made.

Part II

Renewal of Licences

Applications for the renewal of licences

4.—(1) Notice of application for the renewal of a licence, in accordance with Article 14 and paragraphs 3 and 4 of Schedule 4 shall be in Form 1.

(1) S.R. 1990 No. 211
(2) S.R. 1992 No. 542
(3) S.I.1996/3158 (N.I. 22)

(2) Where on such an application the applicant intends also to make an application under Article 43 (for an order directing that the hours be the alternative permitted hours), or under Article 44 (for an order for additional permitted hours), or under Article 48 (for an order specifying part of the premises as suitable for extension licences) or under Article 59 (for a children's certificate), he shall attach to the notice in Form 1 served on the clerk of petty sessions for the petty sessions district in which the premises are situated, and to the copies required to be served by paragraph 3 of Schedule 4, a notice in Form 15, 16, 17 or 20, as may be appropriate and, (except where an order is in force in relation to the part of the premises to which the application relates and no structural alteration to that part of the premises has been made since the order was granted), a plan of the premises distinguishing the part thereof to which the application relates.

(3) Notice of intention to object to the renewal of a licence, in accordance with Article 15 and paragraphs 5 and 6 of Schedule 4, shall be in Form 2.

Part III

Documents

Documents to be lodged with applications or produced to the court

5.—(1) Where application is made for the renewal of a licence for an hotel or a guest-house a current certificate, issued by the Northern Ireland Tourist Board, stating that the premises are those of an establishment allocated by a certificate under Article 13 of the Tourism (Northern Ireland) Order 1992⁽⁴⁾ to the statutory category of hotel or guest-house, as the case may be, shall be lodged with a notice of application.

(2) Where application is made for the renewal of a licence for a conference centre a copy of the current certificate, issued by the Northern Ireland Tourist Board, stating that the said premises comply with Article 2(2) shall be lodged with the notice of application.

(3) Evidence for the purposes of Article 2(5) that a licence was granted before 31st July 1902 or under Article 4(1) of the Licensing (Northern Ireland) Order 1978⁽⁵⁾ or under Article 12(1) of the Licensing (Northern Ireland) Order 1990 or Article 11(1) of the Order in lieu of such a licence may be in the form of a certified extract from the register of licences.

(4) Where application is made:—

- (a) for the renewal of a licence for an hotel, restaurant, conference centre, higher education institute or premises of the kind mentioned in Article 5(1)(a) and either an application is to be made or an order is in force for the premises under Article 44;
- (b) for an order under Article 44 other than on renewal; or
- (c) for the renewal of a licence for any place of entertainment,

any licence required for those premises by a council under Schedule 1 to the Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985⁽⁶⁾ shall be produced to the court.

⁽⁴⁾ S.I. 1992/235 (N.I. 3)

⁽⁵⁾ S.I. 1978/1044 (N.I. 14)

⁽⁶⁾ S.I. 1985/1208 (N.I. 15)

Part IV

Transfer of Licences and Authorisations under Article 29

Applications for the transfer or the concurrent transfer and renewal of a licence

6.—(1) Notice of application for the transfer of a licence in accordance with Article 22 and paragraphs 1 and 2 of Schedule 5, shall be in Form 3, and notice of application for the transfer and renewal of a licence under Article 23 shall be in Form 4.

(2) Where an application is made for the transfer of a licence, or the transfer and renewal of a licence, a copy of the pages of the newspapers bearing the notices referred to in paragraph 1(a) of Schedule 5 or paragraph 8(b)(ii)(a) of Schedule 4, as the case may be, endorsed with the date on which they were published shall be lodged with the clerk of petty sessions a reasonable time before the hearing of the application.

(3) Notice of intention to object to the transfer of a licence shall be in Form 5.

Protection orders, temporary continuance of business in certain circumstances and authorisation of continuance of business

7.—(1) Notice of application for a protection order, in accordance with Article 26 and paragraphs 2 and 3 of Schedule 6, shall be in Form 6.

(2) Notice that a person is carrying on business by virtue of Article 28 shall be in Form 7.

(3) Notice of application for an order authorising the continuance of a business in temporary or other premises, in accordance with Article 29 and paragraphs 2 and 3 of Schedule 6, shall be in Form 8.

(4) Notice of intention to object to the making of a protection order or an order under Article 29 shall be in Form 9.

Part V

Occasional Licences

Applications for the grant of an occasional licence

8.—(1) Notice of application for the grant of an occasional licence, in accordance with Article 30 and paragraphs 2 and 4 of Schedule 7, shall be in Form 10.

(2) An occasional licence shall be in Form 11.

(3) The applicant for an occasional licence shall attach to the notice of application and to the copies thereof to be served on the sub-divisional commander and the district council a written statement containing the particulars referred to in paragraph (4) made by the body organising the function to which the application relates.

(4) The written statement referred to in paragraph (3) shall be signed by an officer of the body and shall set out the names and purposes of the body, the nature of the function, the premises on which and the times during which the function is to be held. It shall also state the names and addresses of each of the persons to be in personal charge of running the function.

(5) A caution such as is referred to in paragraph (3) of Schedule 7 shall be in Form 12 and the cautioner shall, in addition to complying with that paragraph, serve a copy of the caution on the person to whom the licence was granted.

(6) The sub-divisional commander, the district council or a cautioner who intends to appear at the hearing and to object to the grant of an occasional licence shall not later than 5 days before the date fixed for hearing serve notice of his intention to object and his grounds for so doing upon the applicant and upon the clerk of petty sessions. The said notice shall be in Form 13.

(7) Where the sub-divisional commander does not object to the grant of a licence he may so state at the foot of the copy of the notice of the application which he receives and may cause the said copy of the notice to be delivered to the clerk of petty sessions not later than the day before the court sitting at which the application is made.

Part VI

Alterations to Licensed Premises

Alterations required by lawful authority

9.—(1) Notice of an alteration to licensed premises required by order of some lawful authority, referred to in Article 31(1)(ii) and paragraph 7 of Schedule 8, shall be in Form 14.

(2) The proposed alterations shown in the plan required to be attached to Form 14 under paragraph 8(1) of Schedule 8 should be authenticated on behalf of the authority in question by the signature of an officer thereof having power to do so.

Part VII

Alternative Permitted Hours

Applications for an order for alternative permitted hours for off-sales

10.—(1) Notice of an application for an order for alternative permitted hours, in accordance with Article 43 and paragraphs 2 and 3 of Schedule 9, shall be in Form 15.

(2) Where an application is made for an order for alternative permitted hours, the applicant shall attach to the notice in Form 15 served on the clerk of petty sessions, and to the copies required to be served by paragraph 2 of Schedule 9, a plan of the premises distinguishing the part thereof to which the application relates.

(3) Notice of intention to object to the making of an order for alternative permitted hours, in accordance with paragraphs 4 and 5 of Schedule 9, shall be in Form 21.

Part VIII

Additional Permitted Hours

Applications for additional permitted hours

11.—(1) Notice of an application for an order for additional permitted hours, in accordance with Article 44 and paragraphs 2 and 3 of Schedule 9, shall be in Form 16.

(2) Where an application is made for an order for additional permitted hours, the applicant shall attach to the notice in Form 16 served on the clerk of petty sessions, and to the copies required to be served by paragraph 2 of Schedule 9, (except where an order for additional permitted hours is in force in relation to the part of the premises to which the plan relates and no structural alteration to the

premises has been made to that part since the order for additional hours was granted in respect of the premises or since the licence for the premises was last renewed), a plan of the premises distinguishing the part thereof to which the application relates.

(3) Notice of intention to object to the making of an order for additional permitted hours, in accordance with paragraphs 4 and 5 of Schedule 9, shall be in Form 21.

Part IX

Extension Licences

Applications for an order specifying part of the premises as being suitable for functions

12.—(1) Notice of an application for an order specifying part of the premises as suitable for an extension licence, in accordance with Article 48 and paragraphs 2 and 3 of Schedule 9, shall be in Form 17.

(2) Where an application is made for an order specifying part of the premises as suitable for functions, the applicant shall attach to the notice in Form 17 served on the clerk of petty sessions, and to the copies required to be served by paragraph 2 of Schedule 9, a plan of the premises distinguishing the part thereof to which the application relates.

(3) Notice of intention to object to the making of an order specifying part of the premises as suitable for functions, in accordance with paragraphs 4 and 5 of Schedule 9, shall be in Form 21.

Applications for extension licence

13.—(1) A notice of application for an extension licence, in accordance with Article 47 and paragraphs 2 and 3 of Schedule 10, shall be in Form 18.

(2) Paragraphs (3), (4) and (7) of Rule 8 shall apply to applications for the grant of extension licences as they apply to occasional licences, and paragraph 7 of Rule 8 shall, in so applying, have effect as if for the words “the court sitting at which the application is to be made” there were substituted the words “the day on which the application is to be considered”.

(3) Notice of intention to object to the grant of an extension licence shall be in Form 19.

Part X

Children’s Certificates

Applications for children’s certificates

14.—(1) An application for the grant of a children’s certificate, in accordance with Article 59 and paragraphs 2 and 3 of Schedule 9, shall be in Form 20.

(2) Where an application is made for the grant of a children’s certificate, the applicant shall attach to the notice in Form 20 served on the clerk of petty sessions, and to the copies required to be served by paragraph 2 of Schedule 9, a plan of the premises distinguishing the part thereof to which the application relates.

(3) Notice of intention to object to the grant of a children’s certificate, in accordance with paragraphs 4 and 5 of Schedule 9, shall be in Form 21.

Part XI

Miscellaneous

Plans

15. Any plan which is required to be served must:—
- (a) be to scale on substantial paper or other material;
 - (b) show each floor of the premises on a separate page measuring approximately 18 inches (46 centimetres) by 18 inches (46 centimetres);
 - (c) be certified as true and correct by an architect, surveyor or other person considered by the court to be competent to do so;
 - (d) show the parts of the premises on which intoxicating liquor is sold, or in which it is intended that intoxicating liquor should be sold, by clearly distinguishing in bold, hatched or shaded colour between that and other parts of the premises.

Costs

16. Article 163 of the Magistrates' Courts (Northern Ireland) 1981(7) (costs) shall apply to an application under Schedules 4, 5, 6, 7, 8, 9 or 10 as if any objector were a respondent.

Register of licences

17.—(1) Where premises were licensed for which plans were deposited in the office of the chief clerk and have been sent to the clerk of petty sessions or plans were in the possession of the clerk of petty sessions before 3rd May 1971(8), those plans should be indexed as relating to the register and kept as plans duly sent to such clerk under Article 34(3).

(2) Where by reason of any change in the boundaries of the petty sessions district or otherwise, premises should be registered in the register of another district, a certified copy of the relevant entry in the register and any plans relating thereto shall be sent by the clerk for the first-mentioned district to that of the other for inclusion in the register and he shall so inform the person holding the licence for the premises.

(3) In this rule the expression “chief clerk” has the meaning assigned to it by Article 2(2) of the County Courts (Northern Ireland) Order 1980(9).

Copies of notices for sub-divisional commander

18.—(1) Any notice, document or copy thereof required by the Order or these Rules to be served on the sub-divisional commander of a police sub-division shall be served, unless the sub-divisional commander otherwise directs, by being lodged with the member of the Royal Ulster Constabulary for the time being in charge of a police station within the sub-division in which the premises to which the document relates are situated or, as the case may be, in which the applicant resides.

(2) Notwithstanding anything in Article 2(9), where the applicant is a body corporate paragraph (1) shall have effect as if for the reference to the police sub-division in which the applicant resides there was substituted a reference to that in which the body has its principal or registered office.

(7) S.I. 1981/1675 (N.I. 26)

(8) The commencement date of section 34(3) of the Licensing Act (Northern Ireland) 1971 (c. 13 (N.I.))

(9) S.I. 1980/397 (N.I. 3)

Mode of service of documents

19.—(1) Any notice, document or copy thereof such as is referred to in rule 18 or which is required by the Order or these Rules to be served on the clerk of petty sessions or any other person or body may be served by the applicant, his solicitor or a member of the staff in the solicitor's office over the age of 16 years by sending it by registered post or by the recorded delivery service in an envelope addressed to the intended recipient:—

- (a) rule 18 applies, at the police station specified in that rule;
- (b) where service is to be on the clerk of petty sessions or a local or official body, at the address of his or its office;
- (c) in any other case, his residence.

(2) A notice of application or any other document required by the Order or these Rules to be served on the clerk of petty sessions and also required to be served on any other person or body shall be endorsed with a note of the mode and date of service of such document on such other person or body.

(3) Production of the Post Office advice of delivery shall be evidence of such posting.

Dated 17th February 1997.

Mackay of Clashfern, C.