
STATUTORY INSTRUMENTS

1990 No. 594

The Licensing (Northern Ireland) Order 1990

PART I
INTRODUCTORY

Title and commencement

- 1.—(1) This Order may be cited as the Licensing (Northern Ireland) Order 1990.
- (2) This Order shall come into operation on the expiration of 3 months from the day on which it is made.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954⁽¹⁾ 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 88(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⁽²⁾;

“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⁽³⁾ 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;

“cider” includes perry;

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

“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;

(1) 1954 c. 33 (N.I.)
(2) 1985 NI 15
(3) 1967 c. 37 (N.I.)

“doctor” means a fully registered person within the meaning of section 55 of the Medical Act 1983(4);

“enactment” has the meaning assigned to it by section 1(b) of the Interpretation Act (Northern Ireland) 1954(5);

“extension licence” means a licence granted under Article 54(1);

“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;

“holder of a licence” includes a person such as is mentioned in Article 30(2);

“hotel”, without prejudice to paragraph (5), means any premises or set of premises registered in the register of hotels maintained by the Northern Ireland Tourist Board under section 10 of the Development of Tourist Traffic Act (Northern Ireland) 1948(6);

“housing authority” means—

- (a) a public body exercising functions under the Housing (Northern Ireland) Order 1981(7);
- (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, whether made on the premises of a brewer for sale or elsewhere, is found on analysis of a sample thereof at any time to be of an original gravity not exceeding 1016° and of a strength not exceeding 1.2 per cent.;

and expressions used in sub-paragraphs (a), (d) and (e) shall have the same meaning as in the Alcoholic Liquor Duties Act 1979(8);

“licence” means a licence under this Order authorising the sale of intoxicating liquor by retail but except in Articles 68 to 70, 72, 74 and 87(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 59, 68 to 74 and 87(3) and (5) includes the place or premises specified in an occasional licence;

“licensing year” means a period beginning on 1st October in any year and ending on 30th September in the next following year;

(4) 1983 c. 54
(5) 1954 c. 33 (N.I.)
(6) 1948 c. 4 (N.I.)
(7) 1981 NI 3
(8) 1979 c. 4

“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 32(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 48 to 51, means the hours specified in Article 47;

“pharmacist” means a registered pharmaceutical chemist or a registered druggist;

“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(9);
- (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 28;

“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” except in Schedule 3, means regulations made by the Department subject (except as otherwise provided in this Order) to negative resolution;

“renewal date” in relation to any licensing year means 1st September in that year;

“resident”, in relation to premises of a kind mentioned in Article 6(1)(a) or an hotel, means a guest or traveller who has lodged in the premises or hotel for the preceding night or has in writing engaged a room for the succeeding night;

“restaurant” means any premises—

- (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; and
- (b) for which there is in force a certificate from the Northern Ireland Tourist Board stating—
 - (i) that the restaurant for which the certificate is in force is registered in the register of restaurants maintained by the Board under section 10 of the Development of Tourist Traffic Act (Northern Ireland) 1948⁽¹⁰⁾;
 - (ii) that in the opinion of the Board the restaurant—
 - (aa) is well equipped and well furnished and provides comfortable seating in the dining-room or rooms;
 - (bb) is operated by a competent management and staff; and
 - (cc) provides a high standard of catering; and
 - (iii) that the restaurant conforms to the requirements, if any, prescribed by regulations made with the concurrence of the Department of Economic Development;
 but does not include premises of a kind mentioned in Article 6(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;

“servant” includes apprentice;

“statutory provision” has the meaning assigned to it by section 1(f) of the Interpretation Act (Northern Ireland) 1954⁽¹¹⁾;

“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⁽¹²⁾.

(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 6(1)(a) to (g).

⁽¹⁰⁾ 1948 c. 4 (N.I.)

⁽¹¹⁾ 1954 c. 33 (N.I.)

⁽¹²⁾ 1985 NI 15

(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 notwithstanding that they are not registered in the register of hotels mentioned in paragraph (2), 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(13) or Article 12(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(14), and
 - (ii) the accommodation for guests which is provided in the premises is approved by the Northern Ireland Tourist Board; 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 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(15) or section 9(a)(ii) of the Intoxicating Liquor Act (Northern Ireland) 1923, and
 - (ii) are registered in the register of guest houses maintained by the Northern Ireland Tourist Board under section 10 of the Development of Tourist Traffic Act (Northern Ireland) 1948(16), 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 this Order the licence granted under that Article 4(1) or, as the case may be, Article 12(1) 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(17), 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.

(11) For the purposes of section 42 of the Northern Ireland Constitution Act 1973(18) (validity of Acts of the Parliament of Northern Ireland), provisions of this Order which re-enact provisions of an Act of the Parliament of Northern Ireland shall be deemed to be provisions of such an Act.

(13) 1978 NI 14
(14) 1923 c. 12 (N.I.)
(15) 1902 c. 18
(16) 1948 c. 4 (N.I.)
(17) 1979 c. 4
(18) 1973 c. 36

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