
STATUTORY INSTRUMENTS

1990 No. 594

The Licensing (Northern Ireland) Order 1990

PART IV

CONDUCT OF LICENSED PREMISES, ETC.

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

Penalty for selling, etc., intoxicating liquor without a licence

57.—(1) 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.

(2) 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.

(3) Without prejudice to Article 85, for the purposes of this Article a vessel shall be deemed to be premises and paragraph (2) shall apply to the master of a vessel as it applies to the occupier of premises.

Penalty for consumption of intoxicating liquor at entertainments organised for gain

58.—(1) Where a person—

- (a) himself or by his servant or agent, supplies or keeps intoxicating liquor for consumption in contravention of Article 4(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, keep for consumption or consume intoxicating liquor in contravention of Article 4(1), or
- (c) being the holder of a licence, himself or by his servant or agent, delivers intoxicating liquor to any premises mentioned in Article 4(1) or permits it to be so delivered, or
- (d) consumes intoxicating liquor in contravention of Article 4(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.

(2) Where Article 4(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.

(3) Without prejudice to Article 85, for the purposes of this Article a vessel shall be deemed to be premises and paragraph (2) shall apply to the master of a vessel as it applies to the occupier of premises.

Restrictions on sale of certain kinds of alcohol

59.—(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

60.—(1) Where part or parts of any premises (other than premises of a kind mentioned in Article 6(1)(b) or (c)) 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

61.—(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 6(1)(b).

Selling, etc., intoxicating liquor contrary to conditions applicable to certain licences

62. Subject to Article 18(3), where any person who is the holder of a licence for premises of a kind mentioned in Article 6(1)(c) to (g), himself or by his servant or agent, either sells intoxicating liquor or makes it available for purchase in those premises otherwise than in compliance with the conditions set out in Article 6(3) which relate to premises of that kind, 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.

Restriction as to sale, etc., of intoxicating liquor for consumption off the premises and conditions as to sale, etc., in restaurants

63.—(1) The holder of a licence for premises of a kind mentioned in Article 6(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—

- (a) on weekdays or Good Friday after nine in the evening; or
- (b) on Sunday or Christmas Day.

(2) 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 set out in paragraph (3) are complied with.

(3) The conditions mentioned in paragraph (2) are that—

- (a) the intoxicating liquor is sold for consumption and is consumed—
 - (i) as an 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) suitable beverages other than intoxicating liquor (including drinking water) are also made available for consumption.

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

(5) 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 6(1)(a) which provides accommodation for guests such as is mentioned in Article 33(3) or an hotel or the taking of it by him from such premises or hotel.

Places of public entertainment

64.—(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

65.—(1) Where any licensed premises are within the examination station approved under section 22 of the Customs and Excise Management Act 1979(1) 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

66.—(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 82; 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.

Conditions as to delivery of intoxicating liquor

67.—(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 took all reasonable precautions and exercised due diligence to avoid the commission of such an offence.