
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.

Minors

Minors prohibited from certain premises

68.—(1) During the permitted hours a minor shall not be in—

- (a) any part of premises of a kind mentioned in Article 6(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 6(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 minor 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 minor to go to, or to be in, any part of licensed premises as mentioned in paragraph (1) during the permitted hours.

(4) Any person acting in contravention of paragraph (1), (2) or (3) shall be guilty of an offence and shall be liable on summary conviction—

- (a) for a contravention of paragraph (1), to a fine not exceeding level 3 on the standard scale;
- (b) for a contravention of paragraph (2) or (3), to a fine not exceeding level 4 on the standard scale.

(5) In any proceedings for an offence by reason of a contravention of paragraph (2) 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 minor was not of full age.

(6) Where a minor represents himself to be of full age 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.

(7) Paragraphs (1) and (2) shall not apply with respect to a minor who is in a part of premises mentioned in paragraph (1)(a) or (b) and is accompanied by a parent and nothing in this Article shall apply with respect to a minor 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 apprenticed to the holder of the licence under a contract in writing; 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.

(8) Where a minor who is found in any part of licensed premises as mentioned in paragraph (1) is apprenticed to the holder of the licence, the minor or the holder shall at the request of a constable produce the contract of apprenticeship 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 the minor 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.

Sale, etc., of intoxicating liquor to minors

69.—(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 minor; or
- (b) sell or deliver intoxicating liquor to any person for consumption by a minor in the licensed premises; or
- (c) sell or deliver intoxicating liquor to any person for consumption by a minor off the licensed premises; or
- (d) permit a minor 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 minor 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 minor 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 minor 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 minor, 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 minor 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 minor was not of full age.
- (8) Where a minor represents himself to be of full age 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.

Preservation of order

Drunkenness in licensed premises

- 70.**—(1) Where the holder of a licence himself or by his servant or agent, or such a servant or agent,—
- (a) permits drunkenness or any disorderly conduct to take place in the licensed premises, or
 - (b) sells intoxicating liquor to a drunken person knowing him to be such,
- 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.
- (2) Where any person is found drunk in licensed premises he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.
- (3) Where the holder of a licence or his servant or agent is charged under paragraph (1)(a) with permitting drunkenness, and it is proved that any person was drunk in the licensed premises, the burden of proving that the defendant took all reasonable steps to prevent drunkenness in the premises shall lie upon him.

Procuring drink for drunken person

- 71.**—(1) If any person in licensed premises procures intoxicating liquor for consumption by a drunken person he shall be guilty of an offence.
- (2) If any person aids a drunken person in obtaining or consuming intoxicating liquor in licensed premises he shall be guilty of an offence.
- (3) If any person without reasonable excuse brings a drunken person into licensed premises he shall be guilty of an offence.
- (4) A person guilty of an offence under this Article shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(5) A person shall not be convicted of an offence under this Article unless the court is satisfied that he knew or ought to have known the condition of the person in connection with whom the charge is brought.

Power to exclude drunken persons, etc., from licensed premises

72.—(1) Without prejudice to any other right to refuse a person admission to premises or to expel a person from premises, the holder of a licence or his servant or agent may refuse to admit to, or may expel from, the licensed premises any person who is drunken, or is acting in a disorderly manner, or whose presence in the licensed premises would subject the holder of the licence to a penalty under this Order or under any other statutory provision.

(2) If any person liable to be expelled from licensed premises under this Article, when requested by the holder of the licence or his servant or agent or a constable to leave the premises, fails to do so, 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.

(3) A constable shall, on the demand of the holder of a licence or his servant or agent, help to expel from the licensed premises any person liable to be expelled from those premises under this Article, and may use such force as may be required for the purpose.

Riotous, disorderly or indecent behaviour in licensed premises

73.—(1) A person who in any licensed premises uses—

- (a) riotous, disorderly or indecent behaviour, or
- (b) behaviour whereby a breach of the peace is likely to be occasioned,

shall be guilty of an offence.

(2) A person guilty of an offence under this Article shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale or to imprisonment for a term not exceeding 6 months or to both.

Prostitutes not to be allowed to assemble on licensed premises

74.—(1) Where the holder of a licence himself or by his servant or agent, or such a servant or agent, permits the licensed premises to be the habitual resort or place of meeting of reputed prostitutes, whether the object of their so resorting or meeting is or is not prostitution, 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.

(2) Paragraph (1) shall not prohibit any such persons from being permitted to remain in the premises for the purpose of obtaining reasonable refreshment for such time as is necessary for that purpose.

Miscellaneous

Provision for inspection and rights of entry

75.—(1) A constable may, at any reasonable time,—

- (a) for the purpose of inspecting the suitability of—
 - (i) premises in respect of which a notice of application has been served under paragraph 1(c) of Schedule 1 for the grant of a licence under this Order, or
 - (ii) licensed premises in respect of which a notice of application has been served under paragraph 3 of Schedule 4 for the renewal of a licence under this Order and in which

since the last previous renewal of the licence (or, where the renewal to be applied for is the first renewal of the licence, since the licence was granted), alterations have been made,

enter and inspect the premises or, as the case may be, the licensed premises;

(b) for the purpose of ascertaining whether a contravention of this Order is being or has been committed or whether any conditions which are applicable under this Order are being or have been complied with, enter and inspect—

(i) licensed premises; or

(ii) premises which adjoin or are near licensed premises and which belong to the holder of the licence or are under his control or used by his permission.

(2) If any person—

(a) fails or delays without reasonable excuse to admit a constable who demands admission to the premises under paragraph (1), or

(b) on being required by a constable to do so, fails without reasonable excuse to permit the constable to inspect the premises,

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.

(3) If, on complaint on oath, a justice of the peace is satisfied that there are reasonable grounds for suspecting that an offence under this Order is being, has been or is about to be committed at any place, he may issue a warrant in writing authorising any constable to enter that place, if necessary by force, and to search that place.

(4) Any constable who enters any place under the authority of a warrant issued under paragraph (3) may—

(a) seize and remove any intoxicating liquor and its containers found in that place which he has reasonable cause to believe may be required as evidence for the purposes of proceedings in respect of an offence under this Order; and

(b) search any person found at that place whom he has reasonable cause to believe to be committing or to have committed any such offence.

(5) In paragraphs (3) and (4) “place” includes “premises”.

Persons found on unlicensed premises, etc.

76.—(1) Where on any premises or in any place any liquor is sold or made available for purchase or permitted to be consumed in contravention of Article 57, 59 or 60, any person found there shall, unless he proves that he is there for a lawful purpose, be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(2) Where, on being asked by a constable for his name and address, a person found as mentioned in paragraph (1)—

(a) refuses to give them; or

(b) gives a false name or address; or

(c) refuses to answer satisfactorily any question put to him to ascertain the correctness of the name or address given,

he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Production of licence

77. The holder of a licence or protection order shall at the request of a constable produce it within 7 days of the request to, or in accordance with the directions of, the constable for examination, and if it is not so produced he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.