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STATUTORY INSTRUMENTS

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**1992 No. 235**

**The Tourism (Northern Ireland) Order 1992**

**PART IV**

**REGULATION OF TOURIST ACCOMMODATION**

**The statutory categories of tourist establishment**

**12.**—(1) For the purposes of this Part there shall be the following categories of tourist establishment, namely—

- (a) hotels;
- (b) guest houses;
- (c) bed and breakfast establishments;
- (d) self-catering establishments; and
- (e) hostels.

(2) The Department may by order made subject to affirmative resolution amend paragraph (1) as for the time being in force by—

- (a) adding any category of tourist establishment to the list in that paragraph;
- (b) deleting any category of tourist establishment from that list;
- (c) amending any category of tourist establishment in that list.

(3) An order under paragraph (2) may make such amendments to the Licensing (Northern Ireland) Order 1990(1) as appear to the Department to be necessary or expedient in consequence of the provisions of the order.

(4) A category of tourist establishment for the time being listed in paragraph (1) is referred to in this Part as a “statutory category”.

(5) The Department shall, after consultation with the Board, by regulations prescribe, in relation to each statutory category of tourist establishment, the criteria to be met by an establishment to be eligible for allocation under this Part to that statutory category.

(6) Without prejudice to the generality of paragraph (5), the criteria to be met by an establishment to be eligible for allocation under this Part to a particular statutory category of tourist establishment may be prescribed under that paragraph by reference to—

- (a) the general nature and character of the establishment;
- (b) the nature, extent and standard of accommodation and services provided in the establishment; and
- (c) such other matters as the Department thinks appropriate in relation to that statutory category.

(7) Different criteria may be prescribed under paragraph (5) in relation to different prescribed classes of establishment within a particular statutory category of tourist accommodation; and, in such a case, references in this Part to an establishment meeting the criteria prescribed under paragraph (5) in relation to a statutory category shall be construed as references to an establishment meeting the criteria prescribed under that paragraph in relation to the prescribed class of establishment within that statutory category to which that establishment belongs.

### **Statutory inspection and certification of tourist establishments**

**13.—**(1) The Board shall cause—

- (a) each certified tourist establishment to be inspected by an officer of the Board on at least one occasion in each year;
- (b) an establishment in relation to which it receives an application under paragraph (2) or (3), to be inspected by an officer of the Board;

and an inspection under this paragraph is referred to in this Part as a “statutory inspection”.

(2) The Department may by regulations make provision in relation to the statutory inspection under paragraph (1)(b) of establishments in respect of which no certificate under this Article is for the time being in force, and such regulations may in particular require the proprietor of any such establishment—

- (a) to give to the Board the prescribed notice of his intention to provide tourist accommodation in that establishment;
- (b) to apply to the Board in the prescribed form for a statutory inspection of the establishment to be conducted with a view to allocating that establishment to such particular statutory category as is specified in the application.

(3) The Department may by regulations make provision in relation to the statutory inspection under paragraph (1)(b) of a certified tourist establishment where the proprietor of that establishment applies to the Board in the prescribed form for a statutory inspection of the establishment to be conducted with a view to allocating that establishment to such particular statutory category as is specified in the application, being a category different from that to which the establishment is allocated by the certificate for the time being in force under this Article in relation to it.

(4) A statutory inspection of any certified tourist establishment under paragraph (1)(a) shall not be conducted less than 11 months after the last previous such statutory inspection of that establishment.

(5) Where, on a statutory inspection of any establishment, it appears to an officer of the Board that the establishment meets the criteria prescribed under Article 12(5) in relation to the relevant statutory category of tourist establishment, he shall issue a certificate allocating that establishment to that category.

(6) In paragraph (5) “the relevant statutory category of tourist accommodation” in relation to an establishment means—

- (a) in the case of a statutory inspection of that establishment under paragraph (1)(a), the statutory category specified in the certificate in force under this Article in relation to the establishment; and
- (b) in the case of a statutory inspection of that establishment under paragraph (1)(b), the particular statutory category specified in the application for that inspection made under paragraph (2) or (3).

(7) A certificate issued under this Article—

- (a) shall be in the prescribed form;
- (b) shall contain a statement specifying—
  - (i) the establishment to which it relates;

- (ii) the statutory category to which that establishment is allocated;
- (iii) the name of the proprietor of that establishment;
- (c) shall be signed by the officer of the Board who issues the certificate;
- (d) shall, during the time it remains in force, be displayed in a prominent position at or near the principal entrance to the establishment to which it relates or at such other place in that establishment as the Board may require.

(8) A certificate under this Article shall be issued to the person specified in it as the proprietor of the establishment to which the certificate relates and, subject to paragraph (13), references in this Part to the proprietor of an establishment are, where a certificate under this Article is in force in relation to the establishment, references to the person so specified in that certificate.

(9) A certificate issued under this Article on the statutory inspection of an establishment shall, unless revoked by a notice under Article 15(1), 16(2) or 17(1), remain in force until the date on which a certificate is issued under this Article in respect of that establishment on a subsequent statutory inspection of that establishment.

(10) Where the Board is satisfied that the certificate for the time being in force in respect of any tourist establishment has been lost or accidentally destroyed the Board may cause another certificate to be issued to replace that certificate.

(11) Where the proprietor of any certified tourist establishment fails to display, in accordance with paragraph (7)(d), the certificate for the time being in force in respect of that establishment, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(12) A certificate under this Article in respect of any establishment shall be issued—

- (a) subject to the condition that, where a person (the “new proprietor”) becomes the proprietor of the establishment in place of the person specified in the certificate as the proprietor, the Board shall immediately be notified of that fact and of the name of the new proprietor; and
- (b) subject to such other conditions as the Board may notify in writing to the proprietor of that establishment at the time of, or within 14 days of, the issue of the certificate.

(13) Where the name of a person has been notified to the Board under paragraph (12)(a) as the new proprietor of an establishment, references in this Part to the proprietor shall be construed as references to that person.

### **Requirements as to certification and description of tourist accommodation**

**14.—(1)** A person shall not provide or offer to provide tourist accommodation in any establishment unless a certificate under Article 13 is in force in respect of that establishment.

(2) The proprietor of an establishment shall not describe or hold out, or permit any person to describe or hold out, that establishment as being within a statutory category of tourist accommodation unless there is in force in relation to that establishment a certificate under Article 13 allocating that establishment to that statutory category.

(3) A person who contravenes paragraph (1) or (2) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale or to imprisonment for a term not exceeding 6 months, or to both.

### **Revocation or refusal of certificate on statutory inspection**

**15.—(1)** Where on a statutory inspection of a certified tourist establishment under Article 13(1)(a) it appears to an officer of the Board that the establishment does not meet the criteria prescribed under Article 12(5) in relation to the statutory category specified in the certificate in force

in relation to the establishment, the Board shall issue and serve on the proprietor of that establishment a notice revoking that certificate.

(2) Where on a statutory inspection of an establishment under Article 13(1)(b) it appears to an officer of the Board that the establishment does not meet the criteria prescribed under Article 12(5) in relation to the particular statutory category specified in the application for that inspection made under Article 13(2) or (3), the Board shall issue and serve on the proprietor of that establishment a notice refusing to allocate that establishment to that statutory category.

(3) A notice under paragraph (1) or (2)—

- (a) shall be in the prescribed form;
- (b) shall specify the criteria which the establishment does not meet and the reasons why it does not meet those criteria;
- (c) shall draw the proprietor's attention to the effect of Articles 14, 18 and 19.

(4) In addition, a notice under paragraph (1) shall specify the date (not being less than 30 days from the date on which the notice is served) on which the certificate shall be revoked.

(5) A notice under paragraph (1) shall, unless rescinded under Article 18 or quashed under Article 19, have effect to revoke a certificate on the date specified in the notice in accordance with paragraph (4) notwithstanding that on that date a review of the issue of that notice is pending under Article 18 or an appeal against that notice is pending under Article 19.

#### **Revocation of certificate on inspection other than statutory inspection**

**16.—**(1) The Board may, in addition to any statutory inspection, cause a certified tourist establishment to be inspected by an officer of the Board at any time.

(2) Where on an inspection of a certified tourist establishment under this Article it appears to an officer of the Board that—

- (a) the establishment does not meet the criteria prescribed under Article 12(5) in relation to the statutory category specified in the certificate in force in relation to that establishment; or
- (b) any condition subject to which that certificate was issued has not been complied with,

the Board shall issue and serve on the proprietor of that establishment a notice revoking that certificate.

(3) A notice under paragraph (2)—

- (a) shall be in the prescribed form;
- (b) shall specify—
  - (i) in a case to which sub-paragraph (a) of paragraph (2) applies, the criteria with which the establishment does not comply and the reasons why it does not comply with those criteria;
  - (ii) in a case to which sub-paragraph (b) of that paragraph applies, the condition which has not been complied with;

(c) shall specify the date (not being less than 30 days from the date on which the notice is served) on which the certificate shall be revoked;

(d) shall draw the proprietor's attention to the effect of Articles 14, 18 and 19.

(4) A notice under paragraph (2) shall, unless rescinded under Article 18 or quashed under Article 19, have effect to revoke a certificate on the date specified in the notice in accordance with paragraph (3)(c) notwithstanding that on that date a review of the issue of that notice is pending under Article 18 or an appeal against that notice is pending under Article 19.

### **Revocation of certificate following refusal of access to conduct inspection**

17.—(1) Where a request in writing by the Board for access to any certified tourist establishment for the purpose of conducting a statutory inspection or an inspection under Article 16(1) is in the opinion of the Board unreasonably refused on at least two occasions during the currency of any certificate under Article 13, the Board may issue and serve on the proprietor of that establishment a notice revoking the certificate in force in relation to that establishment.

(2) A notice under paragraph (1)—

- (a) shall be in the prescribed form;
- (b) shall specify the date on which the certificate shall be revoked;
- (c) shall draw the proprietor's attention to the effect of Article 14.

(3) The revocation by the Board of a certificate under this Article shall be final.

### **Review by Board of notice of revocation or refusal of certificate**

18.—(1) Where a notice under Article 15(1) or (2) or 16(2) is issued and served in respect of any establishment, the proprietor of that establishment may, by notice in accordance with paragraph (2), require the Board to review the issue of that notice.

(2) Notice under paragraph (1) shall be served on the Board within 7 days from the date on which the notice under Article 15(1) or (2) or 16(2) is served on the proprietor.

(3) On a review under this Article, the proprietor shall have the right to be heard either in person or by his counsel or solicitor.

(4) On a review under this Article of the issue of a notice under Article 15(1) or (2), the Board may either—

- (a) rescind that notice and cause a certificate in such form and subject to such conditions as the Board may direct to be issued in respect of the establishment in question; or
- (b) confirm the issue of that notice.

(5) On a review under this Article of the issue of a notice under Article 16(2), the Board may either—

- (a) rescind that notice; or
- (b) confirm the issue of that notice.

### **Appeal to county court against decision of Board**

19.—(1) Where the issue of a notice under Article 15(1) or (2) or 16(2) in respect of any establishment is confirmed by the Board under Article 18, the proprietor of that establishment may, in accordance with county court rules, appeal against the notice to the county court for the county court division in which that establishment is situated.

(2) On an appeal under this Article against a notice under Article 15(1) or (2), the county court may either—

- (a) allow the appeal, quash the notice and order the Board to cause a certificate in such form and subject to such conditions as the court may direct to be issued in respect of the establishment in question; or
- (b) dismiss the appeal.

(3) On an appeal under this Article against a notice under Article 16(2), the county court may either—

- (a) allow the appeal and quash the notice; or

- (b) dismiss the appeal.
- (4) The decision of the county court on an appeal under this Article shall be final.

**Inspections—general provisions**

- 20.—(1) There shall be payable to the Board by the proprietor of an establishment in respect of—
- (a) a statutory inspection of that establishment; and
  - (b) any other inspection of that establishment conducted by an officer of the Board at the request of that proprietor,

such fee, or a fee calculated in such manner, as may be prescribed.

(2) In making regulations under this Article the Department shall ensure, so far as is practicable, that the fees payable in respect of the inspections mentioned in paragraph (1) shall be such as to produce an amount sufficient to meet the expenses of the Board in conducting those inspections.

(3) Where on any statutory or other inspection of any establishment it appears to an officer of the Board that a contravention of any statutory provision has taken, is taking or may have taken place on or in relation to that establishment, he may bring that matter to the attention of any body or person responsible for the enforcement of that statutory provision.

**Classification or grading of certified tourist establishments**

21.—(1) The Board may make, and from time to time revise, a scheme for the classification or grading by the Board of certified tourist establishments allocated under this Part to a particular statutory category of tourist establishment.

- (2) A scheme under this Article shall—
- (a) set out the criteria to be applied by the Board in classifying or grading any tourist establishment under the scheme;
  - (b) provide a right of appeal to a body constituted in accordance with the scheme for any person aggrieved by a decision of the Board as to the classification or grading of any tourist establishment under the scheme;
  - (c) be published, as for the time being in force, by the Board.

(3) Where a tourist establishment has been classified or graded under a scheme under this Article, the proprietor of that establishment shall not describe or hold out that establishment as being of a classification or grade other than that for the time being allotted to it under that scheme.

(4) The proprietor of a tourist establishment which has not been classified or graded under a scheme under this Article shall not describe or hold out that establishment as being of any classification or grade which could be allotted to an establishment under such a scheme.

(5) A person who contravenes paragraph (3) or (4) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

**Display of charges in certified tourist establishments**

22.—(1) The Department may, after consultation with the Board, make regulations requiring the proprietor of any certified tourist establishment to display, in such manner and in such places in the establishment as may be prescribed, a copy, in such form as may be prescribed, of the scale of charges for the time being operative in respect of accommodation and other services provided in the establishment.

(2) Any person who fails to comply with regulations under this Article shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

### **Supply of signs for certified tourist establishments**

**23.**—(1) The Board may supply to the proprietor of any certified tourist establishment a sign suitable for display at that establishment.

(2) A sign supplied under paragraph (1) to the proprietor of a certified tourist establishment may be in such form and contain such information with respect to—

- (a) the statutory category to which the establishment has been allocated under this Part;
- (b) the classification or grading allotted to the establishment under a scheme under Article 21; and
- (c) other matters relating to the establishment,

as the Board thinks proper.

(3) If the proprietor of any certified tourist establishment to whom a sign has been supplied by the Board under paragraph (1) fails to keep that sign displayed in a prominent position at or near the principal entrance to that establishment, he shall be guilty of an offence.

(4) Except with the consent in writing of the Board, the proprietor of a certified tourist establishment shall not display at that establishment any sign indicating the standard, classification or grading of that establishment other than a sign supplied under paragraph (1).

(5) A person who fails to comply with paragraph (4) shall be guilty of an offence.

(6) A person guilty of an offence under paragraph (3) or (5) shall be liable on summary conviction to a fine not exceeding level 1 on the standard scale.

### **Keeping of visitors register in certified tourist establishments**

**24.**—(1) The proprietor of a certified tourist establishment shall cause to be kept a register (in this Article referred to as a “visitors register”) of visitors using the sleeping accommodation provided at that establishment.

(2) A visitors register shall contain such particulars and be kept by such means as the Department after consultation with the Board may prescribe.

(3) Any person who fails to keep a visitors register in accordance with this Article and regulations thereunder shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 1 on the standard scale.

### **Exemption of establishments from this Part**

**25.**—(1) In such cases as it thinks fit, the Board may, with the approval of the Department, issue a notice of exemption in respect of any establishment, and so long as the notice remains in force the provisions of this Part shall not apply in relation to that establishment.

(2) The Board may at any time, by further notice to the proprietor of an establishment, withdraw a notice of exemption issued in respect of that establishment under paragraph (1).

(3) This Part shall not apply to any aircraft, ship, train or motor vehicle in which sleeping accommodation is provided unless such aircraft, ship, train or motor vehicle is permanently affixed to, or moored in, or remains for over 3 months without leaving, any place.

### **Enforcement of this Part**

**26.**—(1) It shall be the duty of the Board to enforce the provisions of this Part.

(2) Any offence under this Part may be prosecuted by or at the suit of the Board.

### **Consequential amendments to licensing law**

27. The Licensing (Northern Ireland) Order 1990(2) shall have effect subject to the amendments set out in Schedule 2, being amendments consequential on the provisions of this Part.

### **Regulations**

28. Regulations under this Part shall be subject to negative resolution.

### **Interpretation of this Part**

29.—(1) In this Part—

“certificate” means a certificate issued under Article 13;

“certified tourist establishment” means a tourist establishment in respect of which a certificate is for the time being in force;

“notice” means notice in writing;

“premises” includes any place and, in particular, includes any caravan or moveable structure;

“proprietor”, in relation to a certified tourist establishment, shall be construed in accordance with Article 13(8) and (13);

“statutory category”, in relation to tourist establishments, has the meaning assigned to it by Article 12(4);

“statutory inspection” has the meaning assigned to it by Article 13(1);

“tourist establishment” means premises on which tourist accommodation is provided.

(2) Where in any part of a tourist establishment there is provided tourist accommodation which is of a nature or character different from that provided in any other part or parts of that establishment, that part shall, if the Board so directs, be treated for the purposes of this Part as a separate tourist establishment.