

2021 No. 339

MAGISTRATES' COURTS

PROCEDURES

**The Magistrates' Courts (Licensing) (Amendment) Rules
(Northern Ireland) 2021**

Made - - - - *9th December 2021*

Coming into operation *4th January 2022*

The Magistrates' Courts Rules Committee makes and the Department of Justice, after consultation with the Lady Chief Justice, allows the following Rules in exercise of the powers conferred by Article 13 of the Magistrates' Courts (Northern Ireland) Order 1981(a)

Citation and Commencement

1. These Rules may be cited as the Magistrates' Courts (Licensing) (Amendment) Rules (Northern Ireland) 2021 and shall come into operation on 4th January 2022.

Amendment to the Magistrates' Courts (Licensing) Rules (Northern Ireland) 1997

2. The Magistrates' Courts (Licensing) Rules (Northern Ireland) 1997(b) are amended as follows:

(1) In Rule 4—

(a) in paragraph (2), after “Article 44 (for an order for additional permitted hours)” insert “or under Article 44A (for an order for further additional permitted hours),”;

(b) after “16,”, insert “16A,”;

(c) after paragraph (2), insert—

“(2A) Where on such application the applicant intends also to make an application under Article 44 or Article 44A, a copy of the pages of the newspapers bearing the notices referred to in paragraph 2A of Schedule 9, 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.”.

(2) In Rule 5(4), after sub-paragraph (b) insert—

“(ba) for an order under Article 44A(2) other than on renewal;”.

(3) In the title to Part VIII, after “hours” insert “and further additional permitted hours”.

(4) In rule 11—

(a) S.I. 1981/1675 (N.I. 26); Article 13 was amended by paragraph 65 of Schedule 5 to the Constitutional Reform Act 2005 (c.4); paragraph 133 of Schedule 18 to the Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976) and paragraph 4 of the Schedule to the Northern Ireland (Miscellaneous) Provisions) Act 2014 (c.13).
(b) S.R. 1997 No. 62; to which the most recent relevant amendments were made by S.R. 2016 No. 405 and S.R. 2016 No. 303.

- (a) in paragraph (1), after “2” insert “, 2A”;
- (b) after paragraph (2), insert-
 - “(2A) A copy of the pages of the newspapers bearing the notices referred to in paragraph 2A of Schedule 9, 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.”.
- (5) After rule 11, insert—

“Applications for further additional permitted hours where an order under Article 44 applies

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

(2) A copy of the pages of the newspapers bearing the notices referred to in paragraph 2A of Schedule 9, 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 making of an order for further additional permitted hours in accordance with paragraphs 4 and 5 of Schedule 9, shall be in Form 21.”.

- (6) In the Schedule—
 - (a) in Form 16—
 - (i) in note 3, omit “Easter Day or Good Friday”;
 - (ii) in note 5, after “performing.” insert “An Article 44 order may not continue to be used for the provision of entertainment or refreshment after the latest time that intoxicating liquor may be consumed on the premises.”;
 - (b) after Form 16, insert the form in the Schedule to these Rules;
 - (c) in Form 18, in note 5, omit “Easter Day or Good Friday”;
 - (d) in Form 21—
 - (i) in the title, after “(order for additional permitted hours)” insert “[Article 44A (order for further additional permitted hours)]”;
 - (ii) after “(order for additional permitted hours)”, insert “[an order under Article 44A of the Licensing (Northern Ireland) Order 1996 (order for further additional permitted hours)]”; and
 - (iii) after note 3(b), insert—
 - “(ba) in the case of an application under Article 44A, any of the grounds mentioned in Article 44A(5) and (7);”.

*Nigel Broderick
Ciaran McQuillan
Cathy Hughes
Eoghan McKenna*

Dated 29th November 2021

In exercise of the powers conferred by Article 13 of the Magistrates' Courts (Northern Ireland) Order 1981, I allow these Rules.

Sealed with the Official Seal of the Department of Justice on 9th December 2021



Naomi R Long
Minister of Justice

SCHEDULE

Rule 2(6)(b)

“Form 16A

LICENSING (NORTHERN IRELAND) ORDER 1996

(Article 44A, Schedule 9, paragraphs 2 and 3)

Notice of application for an order for further additional permitted hours

TAKE NOTICE that I (*full name of applicant*) of (*full address of applicant*) being the holder of a licence authorising the sale of intoxicating liquor at the premises situated at (*full address of premises*), such premises being [of a kind mentioned in Article 5(1)(a) of the Licensing (Northern Ireland) Order 1996] [an hotel] [1] to which an order of (*date*) under Article 44 of the said Order applies, intend to apply at the magistrates’ court sitting at (*place*) on (*date*) at (*time*) for an order—

— [under Article 44A(3) of the said Order directing that, on (*insert applicable days*), being [a day] [days] specified in the said Article 44 order, an additional hour beginning immediately after the end of the period authorised by the said Article 44 order] [and]

— [under Article 44A(4) of the said Order directing that, on (*insert applicable days*), being days not specified in the said Article 44 order, the hours which would be included in the permitted hours if the day were one specified in the said Article 44 order and an additional hour beginning immediately after the end of those hours]

be included in the permitted hours for the part[s] of the premises to which the said Article 44 order applies.

[No Article 44A order applies or has applied to the part of the premises to which this application relates in the year prior to (*insert the date that is the day after the last day in respect of which the Article 44A order is sought*). [1]

[Article 44A order(s) dated (*insert date*) applies or has applied to the part of the premises to which this application relates for the total of (*insert number*) days in the year prior to (*insert the date that is the days after the last day in respect of which the Article 44A order is sought*).] [1]

The licence required for the premises for which the application is made by a council under Schedule 1 to the Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985 will be produced at the hearing of the application.

Dated this day of 20 .

Signature of Applicant/Applicant’s Solicitor

To the clerk of petty sessions at

Copy to:

(a) the district commander at (*the police district in which the premises to which the application relates are situated*);

(b) the district council at (*district council for the district in which the premises to which the application relates are situated*).

Notes:

[1] Inapplicable words must be deleted.

[2] Premises of a kind mentioned in Article 5(1)(a) of the Licensing (Northern Ireland) Order 1996 to which an order under Article 44A may be granted are those 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.

[3] An Article 44A order may not be made for Christmas Day. Not more than 104 days in any year, i.e. twelve month period, may be specified in an Article 44A order or orders.

[4] An Article 44A order made for a day not specified in the associated Article 44 order is subject to the condition that musical entertainment or other entertainment or substantial refreshment or both such entertainment and refreshment is provided during the hours authorised by the Article 44A order. Entertainment does not include any form of entertainment given otherwise than by persons actually present and performing.

[5] An Article 44A order may not continue to be used for the provision of entertainment or refreshment after the latest time that intoxicating liquor may be consumed on the premises.

[6] In accordance with Rule 19(2) or the Magistrates' Courts (Licensing) Rules (Northern Ireland) 1997, any notice or document served on the clerk of petty sessions shall be endorsed with a note of the mode and date of service of such notice or document on any other person.

No part of the premises shall be treated for the purposes of Article 44A as used or intended to be used for the purpose of habitually providing entertainment or substantial refreshment or both entertainment and substantial refreshment unless it is used or intended to be used for the purpose of providing such entertainment or refreshment during the hours mentioned in Article 44A(3) or (4), as applicable, and for a substantial period preceding the end of the general permitted hours mentioned in Article 42(1) of the Order on every day or on particular days in every week, any break for a period or periods not exceeding 2 weeks in any three successive months, or any special occasion, or by reason of any emergency being disregarded.”

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Magistrates' Courts (Licensing) Rules (Northern Ireland) 1997 (S.R. 1997 No. 62) in consequence of amendments made to the Licensing (Northern Ireland) Order 1996 (1996 No. 3158) (N.I. 22)) by the Licensing and Registration of Clubs (Amendment) Act (Northern Ireland) 2021 (c.7) to—

- make provision for the procedure for an application for an order for further additional permitted hours;
- make provision requiring that a copy of the pages of the newspapers bearing a notice of intention to apply for an order for additional permitted hours be lodged with the clerk of petty sessions; and
- make amendments consequential to the repeal of restrictions on Easter licensing hours and the alignment of closing time for liquor and entertainment.

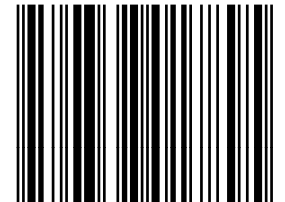
© Crown copyright 2021

Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Jeff James, Controller of Her Majesty's Stationery Office being the Government Printer for Northern Ireland and the Officer appointed to print Acts of the Northern Ireland Assembly.

£6.90

<http://www.legislation.gov.uk/id/misr/2021/339>

ISBN 978-0-33-801789-5



9 780338 017895