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Guide to the Licensing (NI) Order 1996

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INTRODUCTION

This Guide

This guide outlines the requirements of *The Licensing (NI) Order 1996* (the “Licensing Order”). The Licensing Order regulates the sale and consumption of alcohol in licensed premises in Northern Ireland.

This is not a comprehensive guide, however, further guidance is available from:

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Responsibilities

Social Policy Unit

Social Policy Unit is responsible for the policy and legislation regulating the sale and consumption of alcohol in licensed premises in Northern Ireland.

Northern Ireland Courts & Tribunal Service

It is illegal to sell alcohol by retail without a licence. The Northern Ireland Courts & Tribunal Service (NICTS) is responsible for the initial grant and subsequent renewals of licences to sell alcohol. Any breaches of the Licensing Order are investigated by the police and dealt with by the courts.

Licence holders

In granting or renewing a licence, a court is acknowledging that a licence holder is a fit person to hold a licence.

It is also satisfied that the premises are suitable to be licensed for the sale of alcohol and will not cause disturbance or inconvenience to the surrounding community. Therefore, it is up to licence holders to be aware of the law and to make staff and customers aware of it, particularly if they consider that it is being broken.

Police Service of Northern Ireland

The Police Service of Northern Ireland (“the police”) are responsible for enforcing the Licensing Order.

This means the police may:

- object to an application to obtain/renew a licence;
- enter licensed premises for inspections in certain circumstances;
- seek to take prosecutions where premises are not complying with the requirements of the Licensing Order; or
- apply to the court for a suspension of a licence.

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However, it is unreasonable to expect the police to be continually on hand to see that licensed premises are complying with the Licensing Order. Therefore, it is essential that licence holders keep close control of the running of their premises.

THE LICENSING SYSTEM

Licensed premises

The following premises may hold a licence to sell alcohol:

- public houses;
- off-licences;
- hotels;
- guest houses;
- restaurants;
- conference centres;
- higher education institutions;
- places of public entertainment (theatres, ballrooms, racetracks);
- refreshment rooms in public transport premises (railway or bus stations, airports and harbours);
- seamen's canteens;
- non-seagoing vessels;
- indoor arenas; and
- outdoor stadia.

Obtaining a licence for the first time

An application to obtain a liquor licence for premises for the first time must be made to a county court. The application procedure includes placing a notice of intention to apply for a licence in 2 local newspapers and displaying a notice on or near the relevant premises.

Closer to the date of the hearing, a copy of the application must be sent to the court, the local police and the relevant council. This copy must include a plan of the premises showing the part or parts in which alcohol is to be sold.

A county court may also make a provisional grant of a licence for premises not yet completed on the basis of the plans for the premises as submitted to the court.

Specific conditions

Public houses and off-licences

A person applying for a licence for a new public house or a new off-licence must surrender an existing licence to the court. An existing licence may be acquired from any person holding a licence in respect of a public house or an off-licence anywhere in Northern Ireland. In addition, a court will not grant a licence if it considers there are already an adequate number of public houses or off-licences in the vicinity.

Where an off-licence forms only part of the premises, for example in a supermarket, the licensed area must be segregated from the rest of the store and the tills supervised at all times by adults.

Other premises

The sale of alcohol must be ancillary to the normal business carried out in the premises. Alcohol must not be sold for consumption off the premises. This does not apply to a hotel selling alcohol to a resident or diner or to a guest house providing alcohol with a meal for consumption off the premises.

Restaurants

The sale of alcohol in a licensed restaurant is subject to certain conditions including the following important provisions:

- alcohol must be consumed as ancillary to a main table meal and in a part of the restaurant set aside for meals or the service of alcohol before and after meals;
- alcohol must be paid for at the same time and on the same bill as the meal; and
- no fee must be charged for entrance to the premises containing the restaurant.

Guest houses

Alcohol may only be sold to residents, although it may be consumed by residents and their guests on the premises.

A guest house must have a lounge or similar room which provides adequate seating for guests in addition to the dining area, bedrooms and any area where alcohol is sold.

Where the guest house has a restaurant, the rules that apply to the sale of alcohol in a restaurant also apply to a guest house restaurant.

Places of public entertainment

Alcohol may only be sold to people employed by, or attending an entertainment in such premises as theatres and race tracks. Other beverages and food must also be available.

Indoor Arenas and Outdoor Stadia

Alcohol may only be sold to people employed by, or attending an event or activity in the premises.

A magistrates' court may attach conditions to an Indoor Arena or Outdoor Stadium licence. It may also remove or vary conditions.

Renewing a licence

An application to renew a licence must be made to a magistrates' court. The Licensing Order sets out the application procedures. In particular, a licence holder is required to:

- place notices in 2 local newspapers about the application; and
- notify the police and relevant local council about the application.

The clerk of petty sessions will renew the licence in straightforward cases. A magistrates' court will deal with other cases, for example, where there has been an objection to a renewal or alterations have been made to the premises.

Duration of a licence

A licence to sell alcohol is normally valid until the end of the relevant *fixed 5 year licensing period*. The current licensing period is from 1 October 2017 to 30 September 2022. However, a county court may **grant** an initial licence for a shorter period and a magistrates' court may **renew** an existing licence for a shorter period.

All licence holders must apply to have their licences renewed at the start of a new licensing period.

Transferring a licence

An application to transfer a licence may be made to a magistrates' court by the person who is to become the new licence holder for the premises. Among other things, the court will have to be satisfied that the proposed new licence holder is a fit person to hold a licence and that the business has not ceased.

Protection Orders

An application for a protection order may be made to a magistrates' court where a licence holder has become incapable of carrying on the business authorised by the licence, or has died. A person who has an entitlement to the business or who intends to take over the business may apply for a protection order pending an application for the transfer of the licence.

A protection order ensures the continuation of business of a licensed premises during and until the transfer of a licence has been legally concluded by a court.

Alterations to premises

Approval from a county court is necessary for certain alterations to licensed premises.

An application must be made where the alteration:

- will give increased facilities for drinking in a public or common part of the premises;
- add a common or public part in which alcohol is sold;
- conceal a public or common part from view; or
- affect the means of access between the public part and other parts of the premises.

Opening hours

Alcohol must not be sold, consumed or taken from licensed premises except during the opening hours specified in the Licensing Order.

Normal opening hours

The normal opening hours for *licensed premises* are:

- 11.30am to 11.00pm on weekdays;
- 12.30pm to 10.00pm on Sunday or Christmas Day; and
- 5.00pm to 11.00pm on Good Friday.

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The opening hours for *off-licences* and *off-licensed areas of public houses* are:

- 8.00am to 11.00pm on weekdays (but are not permitted to open on Christmas Day); and
- 10.00am to 10.00pm on Sunday (but are not permitted to open on Christmas Day falling on a Sunday or Easter Sunday).

The opening hours for *places of public entertainment* are:

- on weekdays, any part of normal opening hours beginning 30 minutes before the commencement of entertainment and ending 30 minutes after its termination; and
- on Sunday, a theatre is the only place of public entertainment allowed to sell alcohol and the same restrictions on opening hours apply.

Late opening

Public houses, hotels, restaurants, conference centres and higher education establishments, indoor arenas and outdoor stadia may apply to a court for late opening hours as follows:

- 11.00pm to 1.00am on weekdays;
- 10.00pm to midnight on Sunday; or
- 10.00pm to 1.00am where New Year's Eve falls on a Sunday.

A county court (on application to obtain a licence for the first time) or a magistrates' court (at any other time) may make an order authorising late opening where it is satisfied that:

- the premises are structurally suitable for the provision of entertainment or refreshment;
- food or entertainment is regularly provided in the premises for a substantial period during normal opening hours;
- food or entertainment will continue to be provided during late opening; and
- the later opening hours will not cause undue inconvenience to people living in the vicinity of the premises during opening time or after closing time when persons are leaving the premises.

Late opening for certain public houses

The police may authorise late opening for public houses, which do not have a court order for such hours. Applications are made to the local district police commander and late opening may be authorised up to 20 times in a 12 month period.

Extension licences

A magistrates' court or a clerk of petty sessions may grant extension licences to:

- public houses;
- hotels;
- restaurants;
- conference centres;
- higher education establishments;
- indoor arenas; and
- outdoor stadia,

but, only where a court has made an order specifying the premises suitable for functions.

These licences enable alcohol to be sold at functions organised by charities or bodies with a common interest, for example, trades, professions or sports. The sale of alcohol must be ancillary to the function. The hours during which alcohol may be sold are:

- 11.30am to 1.00am the following morning on weekdays; or
- 12.30pm to midnight on Sundays.

Late opening or extension licences will not be granted for Christmas Day, Good Friday or Easter Sunday.

It should be noted that 30 minutes 'drinking-up time' is allowed at the end of any normal or late opening or where an extension licence has been granted.

Occasional Licences

A person who is the holder of a licence for a:

- public house;
- hotel; or
- restaurant

may apply to a magistrates' court for an occasional licence authorising the sale of alcohol at a function in unlicensed premises.

The function must be of a sociable, charitable or benevolent nature and the sale of alcohol must be ancillary to the function.

The maximum period covered by an occasional licence is 6 days at any one time and the sale of alcohol is authorised from:

- 11.30am to 1.00am the following day on weekdays; and
- 12.30pm to midnight on Sundays.

CONDUCT OF LICENSED PREMISES

Licence holders and their staff are responsible for promoting responsible behaviour in relation to the sale and consumption of alcohol and for ensuring that liquor licensing laws are being observed. This involves managing the premises and controlling the behaviour of customers. For example, they may refuse to admit or may expel a person who is drunk or acting in a disorderly manner, and request police assistance if necessary.

A licence holder is also required to ensure that the premises do not cause disturbance or inconvenience to the surrounding area.

Licence holders and their staff may not:

- sell alcohol outside opening hours (including late opening);
- allow alcohol to be consumed after the 30 minute drinking up time;
- permit anyone to be drunk or disorderly in the premises;
- sell alcohol to someone who is drunk; or
- allow prostitutes to use their premises as a meeting place.

A customer or member of public may not:

- consume alcohol after the 30 minute drinking up time;
- act in a drunken or disorderly manner or refuse to leave when asked; or
- bring a drunk or disorderly person into the premises or assist that person to purchase or consume alcohol there.

Irresponsible Drinks Promotions

Licensed premises are not allowed to carry out a drinks promotion which would involve an unlimited amount of alcohol being offered to customers for a fixed charge including an entry charge.

Young people under 18 years of age

In premises other than off licensed premises

A young person under the age of 18 is not allowed in a part of a licensed premises (other than a refreshment room in public transport premises) which contains a bar or is used primarily for the sale and consumption of alcohol in the premises.

This restriction does not apply if the premises has a children's certificate or where the young person is a child of the licence holder, an employee or a trainee. However, it is important to note that an employee or trainee must have reached the upper limit of school leaving age.

Children's Certificates

A court will grant a children's certificate if satisfied that the part of the premises for which the certificate is sought is a suitable environment for a young person. Meals and soft drinks must be available and the area must have an adequate number of tables and chairs.

The certificate allows a young person under the age of 18 accompanied by an adult to be in the premises up to 9.00pm, but does not permit the young person to be at the bar counter. If a meal is purchased before 9.00pm, the young person may remain in the premises up to 9.30pm, in order to consume it.

A children's certificate must be displayed in a conspicuous place in the relevant part of the premises.

In Off-licensed premises

A young person under the age of 18 is not allowed in an off-licence or an off-sales area of a public house unless in the company of an adult.

The above restrictions do not apply where the young person is a child of the licence holder, an employee or a trainee.

Buying or consuming alcohol

A young person under the age of 18 is not allowed to:

- purchase alcohol; or
- consume alcohol in any place or premises other than a private residence.

No person is allowed to:

- purchase alcohol for delivery to, or consumption by, a person under 18 in any place or premises except a private residence; or
- send a young person under 18 to obtain alcohol from licensed premises for consumption off those premises.

A licence holder or a member of staff is not allowed to:

- sell or deliver alcohol to a young person under 18 for consumption on or off the licensed premises;
- sell alcohol to any person for consumption by a young person under 18 either on or off the premises; or
- permit a young person under 18 to consume alcohol in licensed premises.

Proof of Age

Licence holders must display a notice on their premises detailing offences regarding the supply of, obtaining or consuming of alcohol by young persons under 18. The notice must also list the acceptable proof of age documents to prove a person is 18 years or over.

The sale of alcohol at entertainments

Unless one of the following circumstances applies, it is unlawful:

- for any person to supply alcohol, consume it or keep it for supply or consumption at an entertainment; and
- for a licence holder to deliver alcohol to premises where an entertainment is held.

The circumstances are:

- the entertainment is not for private gain;
- the entertainment is held in licensed premises;
- the entertainment is held in the premises of a registered club (a club registered under the Registration of Clubs) (Northern Ireland) Order 1996 to supply alcohol to members and guests); and
- an occasional licence has been granted in relation to the premises where an entertainment is held.

ENFORCEMENT

The holder of a licence or a protection order must produce it for examination, when requested to do so by the police, within 7 days.

Inspection and right of entry

A police officer may, at any reasonable time, enter and inspect any premises which has applied for the grant of a licence or any licensed premises which has applied for the renewal of a licence and to which alterations have been made.

An officer may also enter and inspect, for the purpose of ascertaining whether licensing law is being broken, any licensed premises or nearby premises under the control of the licence holder and any unlicensed premises.

It is an offence to delay or prevent an officer from either entering or inspecting the premises. Also, an officer in possession of a warrant to search the premises may seize and remove alcohol, documents, money etc.

Non-compliance with requirements of Licensing Order

Non-compliance with many of the requirements of the Licensing Order is an offence. Conviction for such offences will result in a fine and may, where the breach is a serious offence, result in a prison sentence of up to 6 months.

Penalty Points

Penalty points may also be attributed to a licence for certain offences. On the accumulation of 10 or more penalty points within a 3 year period, a magistrates' court will suspend a licence for between 1 week and 3 months.

Other suspension of licences

A police district commander may apply to a magistrates' court for the suspension of a licence until the end of the current licensing period.

The grounds for an application include:

- the licence holder is not a fit person to hold a licence;
- the premises are unsuitable to be licensed;
- the business has not been conducted in a peaceable and orderly manner; and
- the business authorised by the licence has discontinued.

A court may also suspend a licence for between 1 week and 3 months following the conviction of an offence:

- under the Licensing Order (whether or not on the accumulation of 10 penalty points);
- under a conviction under Food Safety law; or
- under a conviction under Gambling law.

If a licence holder sells alcohol in the premises during a period of suspension the licence will be suspended for a period of up to 1 year.

Closure Orders

A police officer of the rank of superintendent (or above) may apply to a magistrates' court for a closure order for a licensed premises at or near a place where public disorder is actually occurring or is imminent.

A police officer of the rank of inspector may make a closure order for a licensed premises where public disorder is occurring and it is related to the premises.

Closure Orders may last for a period up to 24 hours but can be extended for a further 24 hours if necessary.

Closure Orders can also be cancelled where there is no longer a threat to public order.