1975 No. 348

COUNTY COURTS

County Court (Licensing) (Amendment) Rules (Northern Ireland) 1975

Made	*8th December* 1975
Coming into operation . .	*2nd February* 1976
To be laid before Parliament	

The Secretary of State(**a**), in pursuance of section 146 of the County Courts Act (Northern Ireland) 1959(**b**) and section 86(1) of and paragraph 2 of Schedule 1 to the Licensing Act (Northern Ireland) 1971(**c**) on the recommendation of the County Court Rules Committee and after consultation with the Lord Chief Justice, hereby makes the rules hereinafter set forth.

Citation and commencement

1. These rules may be cited as the County Court (Licensing) (Amendment) Rules (Northern Ireland) 1975 and shall come into operation on 2nd February 1976.

Amendment of principal rules

2. The provisions of the County Court (Licensing) Rules (Northern Ireland) 1971(**d**) referred to in column 1 of the Schedule are hereby amended to the extent specified in column 2 thereof.

Merlyn Rees

Northern Ireland Office
8th December 1975

One of Her Majesty's Principal Secretaries of State

(a) Formerly the Minister of Home Affairs for Northern Ireland: *see* S.I. 1973/2163
(b) 1959 c. 25 (N.I.)
(c) 1971 c. 13 (N.I.)
(d) S.R. & O. (N.I.) 1971 No. 174 (p. 797)

SCHEDULE

Amendments to the County Court (Licensing) Rules (Northern Ireland) 1971

Provision amended	*Amendment*
Rule 4	In rule 4 after paragraph (1) there shall be inserted the following paragraph: "(1A) A person intending to make an application for the grant or provisional grant of a licence shall, in addition to complying with paragraph 1 of Schedule 1 to the Act, serve a copy of the notice upon the clerk of petty sessions for the petty sessions district in which the premises are situated.". In rule 4 after paragraph (3) there shall be inserted the following paragraph: "(3A) A person entitled to appear at the hearing of an application and object to the provisional grant to a housing authority of a licence being declared final may, in addition or in the alternative to objecting on the ground specified in paragraph 11 of Schedule 1 to the Act, object on the ground that the premises have not been completed as required by section 7(7)(i) and, accordingly, that paragraph shall be modified by inserting at the end the words "or on the ground that the premises have not been completed as required by section 7(7)(i) or on both such grounds.".". In rule 4 after paragraph (4) there shall be inserted the following paragraphs: "(4A) A notice such as is referred to in paragraph (4) shall be served by a person specified in section 7(7)(*a*) on the clerk of the Crown and peace and a copy thereof on the divisional commander of the police division in which the premises for which the licence was provisionally granted are situated and Part III of Schedule 1 to the Act shall, in relation to such person, have effect as if for paragraphs 9 and 11 of that Schedule respectively there were substituted the following paragraphs: "9. Where a licence has been provisionally granted to a person who proposes to be the owner of the business to be carried on under the licence and he intends to apply to have the grant declared final, he shall, not less than three weeks before the time of the opening of the court sittings at which the application is to be made, serve notice of the application upon the clerk of the Crown and peace and at the same time serve a copy of the notice upon the divisional commander of the police division in which the premises for which the licence was provisionally granted are situated.

Provision amended	*Amendment*
	11. A divisional commander upon whom notice is required by paragraph 9 to be served (or any other member of the Royal Ulster Constabulary, not below the rank of sergeant, nominated by him) shall be entitled to appear at the hearing of the application and object to the grant of the licence being declared final on the ground that the premises have not been completed as required by section 7(7)(i).".
	(4B) A person wishing to apply for the consent of the court under section 7(6) to the modification of plans at any time before a licence which has been provisionally granted is declared final shall serve notice in Form 9A on the clerk of the Crown and peace, and a copy of the notice on the divisional commander of the police division to which the premises for which the licence was provisionally granted are or are to be situated, not less than three weeks before the time of the opening of the court sittings at which the application for such consent is to be heard, and shall attach to such notice and copy a copy of the modified plans complying with Rule 9 and clearly showing the proposed modifications.".
	In rule 4 after paragraph (5) there shall be inserted the following paragraphs:
	"(5A) A notice published in the newspapers required by paragraph 1(*a*) in Schedule 1 to the Act shall— (*a*) include a reference to the requirement that any person owning or residing or carrying on business in premises in the vicinity of the premises for which the licence is sought who intends to object to the grant of the licence must, in accordance with paragraph 6 of Schedule 1 to the Act, serve notice of his intention to object not less than one week before the time of the opening of the court sitting specified in the notice so published; (*b*) state that grounds of objection are such as are specified in paragraphs (*a*), (*b*) and (*c*) of paragraph 4 of that Schedule; and (*c*) where appropriate, state that a subsisting licence is to be surrendered to the court and give particulars thereof.".
Rule 5	In rule 5 after paragraph (2) there shall be inserted the following paragraphs:
	"(2A) Where application is made for an order under section 29, the certificate from the Northern Ireland Tourist Board stating that the premises are registered in the register of restaurants maintained by the Board under section 10 of the Development of Tourist Traffic Act (Northern Ireland) 1948 shall be produced at the hearing of the application.

Provision amended	*Amendment*
	(2B) Where a subsisting licence is to be surrendered under section 5(2)(*c*)(ii) or section 7(4)(*c*), a document certifying that the premises specified in the licence are not situated in a redevelopment area or proposed redevelopment area to which Schedule 3 to the Act applies and purporting to be signed by an officer of the Department of Housing, Local Government and Planning shall be produced on the hearing of the application.".
Rule 9	In rule 9 in paragraph (1) for the words "a competent architect or surveyor" there shall be substituted the words "an architect, surveyor or any other person considered by the court to be competent to do so".
The Schedule Forms 1 and 2	At the end of Forms 1 and 2 above the place for the date there shall be inserted the following paragraph:
	"†A subsisting licence as defined in Schedule 2 to the said Act of 1971 for premises such as are specified in section 3(1)[(*a*)][(*b*)] situated at (*address*) (and not, therefore, situated in a redevelopment area or proposed redevelopment area to which Schedule 3 applies) will be surrendered to the Court.".
	After the last footnote below those Forms there shall be added a footnote referring to the said paragraph as follows:
	"†This paragraph should be omitted where section 5(4) of the Act applies.".
	After Form 9 there shall be added the following Form:
	"Form 9A
	LICENSING ACT (NORTHERN IRELAND) 1971
	(*Section* 7(6))
	Notice of application for consent to modification of plans of premises for which licence provisionally granted
	IN THE COUNTY COURT/RECORDER'S COURT FOR THE DIVISION OF
	TAKE NOTICE that I/we (*full name(s)* *of applicant(s)*) of (*full address(es)* *of applicant(s)*) intend to apply to the County Court/

Provision amended	*Amendment*
	Recorder's Court sitting at (*specify courthouse, place of sitting, etc.*) for the above Division commencing at o'clock in the noon on the day of 19 for its consent to the modification of plans deposited under Schedule 1 to the Licensing Act (Northern Ireland) 1971 in respect of premises [to be] situated at (*full address of premises for which licence sought*) for which the court on the day of 19 provisionally granted a licence under section 7 of the said Act for premises of the kind specified in paragraph of section 3(1) thereof. A copy of the modified plans is attached to this notice. I/we intend to apply to have the licence declared final when the premises are completed in accordance with the modified plans if they are approved by the court. Dated this day of 19 . Signature of Applicant(s) or his/their Solicitor To the clerk of the Crown and peace at (*Courthouse*) and to the Commander of the Police Division at (*Divisional Headquarters*) being the Division in which the premises are [to be] situated.".

EXPLANATORY NOTE

(This note is not part of the rules but is intended to indicate their general purport.)

These rules amend the County Court (Licensing) Rules (Northern Ireland) 1971 as to the procedure for applying for a liquor licence.

The rules amend the procedure upon an application to have the provisional grant of a licence declared final and modify Part III of Schedule 1 to the 1971 Act to apply to applications by a person to whom a provisional grant has been made and who proposes to be the owner of the business carried on under the licence.

A person surrendering a subsisting licence under section 5(2) or section 7(4) of the Licensing Act (Northern Ireland) 1971 is, in addition, required to produce a certificate from the Department of Housing, Local Government and Planning, that the premises are not within a redevelopment area or proposed redevelopment area to which Schedule 3 to the Act applies.

An applicant for the grant of a licence must include certain additional particulars in the notice to be inserted in the newspapers of his intention to apply for a licence.

He is also required to serve a copy of the notice of application served on the clerk of the Crown and peace upon the clerk of petty sessions for the petty sessions district in which the premises are situated.

The rules include other minor amendments.