

- (2) In Article 2, in paragraph (2), at the appropriate place insert—
““entitled to work in the United Kingdom” has the meaning given in Article 2C;”.
- (3) After Article 2B insert—

“2C Entitlement to work in the United Kingdom

(1) For the purposes of this Order an individual is entitled to work in the United Kingdom if—

- (a) the individual does not under the Immigration Act 1971 require leave to enter or remain in the United Kingdom, or
- (b) the individual has been granted such leave and the leave—
 - (i) is not invalid,
 - (ii) has not ceased to have effect (whether by reason of curtailment, revocation, cancellation, passage of time or otherwise), and
 - (iii) is not subject to a condition preventing the individual from doing work relating to the sale of intoxicating liquor by retail.

(2) Where an individual is on immigration bail within the meaning of Part 1 of Schedule 7 to the Immigration Act 2016—

- (a) the individual is to be treated for the purposes of paragraph (1) as if the individual had been granted leave to enter the United Kingdom, but
- (b) any condition as to the individual’s work in the United Kingdom to which the individual’s immigration bail is subject is to be treated for those purposes as a condition of leave.”

PART 3

LICENSING SYSTEM

Amendments to Part 2 of the Order (general licensing system)

4. Part 2 of the 1996 Order (general licensing system) is amended as follows.

Article 4

5.—(1) Article 4 (persons to whom licences may be granted) is amended as follows.

(2) In paragraph (2), at the beginning insert “Subject to paragraph (2A),”.

(3) After paragraph (2) insert—

“(2A) A licence may be granted to an individual who is resident in the United Kingdom only if the individual is entitled to work in the United Kingdom.”

Article 13

6. In Article 13 (duration of new licences), after paragraph (1) insert—

“(1A) A licence granted to an individual ceases to be in force if the individual ceases to be entitled to work in the United Kingdom at a time when the individual is resident in the United Kingdom (or becomes so resident without being entitled to work in the United Kingdom).”

Article 16

7.—(1) Article 16 (power to renew licences out of time) is amended as follows.

(2) The existing text becomes paragraph (1).

(3) After that paragraph insert—

“(2) A court may not renew a licence under paragraph (1) on an application made by an individual who is resident in the United Kingdom unless the individual is entitled to work in the United Kingdom.”

Article 21

8.—(1) Article 21 (duration of renewed licence) is amended as follows.

(2) In paragraph (1), in the words before sub-paragraph (a), for “paragraph (2)” substitute “paragraphs (1A) and (2)”.

(3) After paragraph (1) insert—

“(1A) A licence held by an individual that is renewed ceases to be in force if the individual ceases to be entitled to work in the United Kingdom at a time when the individual is resident in the United Kingdom (or becomes so resident without being entitled to work in the United Kingdom).”

Article 22

9. In Article 22 (transfer of licences), after paragraph (6) insert—

“(6A) A court may not grant an application for the transfer of a licence made by an individual who is resident in the United Kingdom unless the individual is entitled to work in the United Kingdom.”

Article 26

10. In Article 26 (protection orders) after paragraph (4) insert—

“(3A) But a court of summary jurisdiction may not make a protection order on an application made by an individual who is resident in the United Kingdom unless the individual is entitled to work in the United Kingdom.”

Article 27

11.—(1) Article 27 (supplementary provisions relating to protection orders) is amended as follows.

(2) In paragraph (1), after head (iv) insert—

“; or

(v) on the holder of the protection order, if an individual, ceasing to be entitled to work in the United Kingdom at a time when the individual is resident in the United Kingdom (or becoming so resident without being entitled to work in the United Kingdom).”

(3) After paragraph (3) insert—

“(3A) A further protection order under paragraph (3) may not be made in favour of an individual who is resident in the United Kingdom unless the individual is entitled to work in the United Kingdom.”

Article 28

12.—(1) Article 28 (temporary continuance of business on death, bankruptcy, etc.) is amended as follows.

(2) In paragraphs (1) and (2), at the beginning insert “Subject to paragraph (2B),”.

(3) After paragraph (2) insert—

“(2A) Subject to paragraph (2B), where at any time a licence ceases to be in force by virtue of Article 13(1A) or 21(1A) (individual ceasing to be entitled to work in the United

Kingdom etc) a person with a legal interest in the premises as freeholder or leaseholder shall be in the same position as regards carrying on business under the licence as if he were the holder of that licence.

(2B) Paragraphs (1), (2) and (2A) do not confer any authority to carry on a business in licensed premises on an individual who is resident in the United Kingdom unless the individual is entitled to work in the United Kingdom.”

(4) In paragraph (3)—

- (a) for “or (2)” substitute “, (2) or (2A)”, and
- (b) after the second “paragraph (1)” insert “or (2A)”.

Schedule 1

13.—(1) Schedule 1 (applications for the grant of licences) is amended as follows.

(2) In paragraph 1 (notice of application for grant of licence), in paragraph (c), at the end insert—

“(iv) the Secretary of State.”

(3) In paragraph 4 (persons who may appear at hearing of application and object), after “in that paragraph” insert “, the Secretary of State”.

(4) In paragraph 8 (modifications where application for provisional grant of licence), in paragraph (d), for “(iv)” substitute “(v)”.

(5) In paragraph 11 (notice of application to have provisional grant of licence declared final), after paragraph (c) insert—

“(d) the Secretary of State.”

(6) In paragraph 13 (persons who may appear at hearing of application and object)—

- (a) for “or the district” substitute “, the district”;
- (b) after “in that paragraph” insert “or the Secretary of State”.

Schedule 4

14.—(1) Schedule 4 (applications for the renewal of licences) is amended as follows.

(2) In paragraph 3 (notice of application for renewal of licence), after paragraph (c) insert—

“(d) the Secretary of State.”

(3) In paragraph 5 (persons who may appear at hearing of application and object), after “in that paragraph” insert “, the Secretary of State”.

Schedule 5

15.—(1) Schedule 5 (applications for the transfer of licences) is amended as follows.

(2) In paragraph 1 (notice of application for transfer of licence), in paragraph (b), at the end insert—

“(iv) the Secretary of State.”

(3) In paragraph 3 (notice of application for renewal of licence), after “in that paragraph” insert “, the Secretary of State”.

Schedule 6

16.—(1) Schedule 6 (applications for protection orders and authorisations of temporary continuance of businesses) is amended as follows.

(2) In paragraph 2 (notice of application), at the end insert “and the Secretary of State”.

(3) In paragraph 5 (persons who may appear at hearing of application and object), after “served” insert “or the Secretary of State”.

PART 4 ENFORCEMENT

Amendments to Part 5 of the Order (enforcement)

17. Part 5 of the 1996 Order (enforcement) is amended as follows.

Article 71

18. In Article 71 (provision for inspection and rights of entry), in paragraph (1), after sub-paragraph (b) insert—

“(c) for the purpose of ascertaining whether an offence under any of the Immigration Acts is being committed in connection with the sale of intoxicating liquor by retail, 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.”

Article 72

19. In Article 72 (suspension of licences), after paragraph (1) insert—

“(1A) An application for the suspension of a licence until—

- (a) the end of the then current licensing period, or
- (b) in the case of a licence which a court has determined shall remain in force for a lesser period, the end of that lesser period,

may be made by the Secretary of State to a court of summary jurisdiction on the ground mentioned in Article 15(2)(b) (being one of the grounds on which objection may be made to an application for renewal of the licence).”

Article 73

20. In Article 73 (suspension of licences on conviction of certain offences), in paragraph (2), after sub-paragraph (b) insert “or

- (c) the holder of a licence is convicted of an offence under any of the Immigration Acts,”.

Article 75

21. In Article 75 (procedure in connection with suspension), in paragraph (1), after sub-paragraph (d) insert “or

- (e) any of the Immigration Acts,”.

PART 5 GENERAL

Further Amendments to the Order (general)

22. The 1996 Order is further amended as follows.

Article 2

23.—(1) Article 2 (interpretation) is amended as follows.

(2) In paragraph (2), at the appropriate place insert—

““Immigration Acts” has the meaning given by section 61(2) of the UK Borders Act 2007;”.

(3) At the end insert—

“(11) References in this Order to an offence under the Immigration Acts include references to an offence under section 133(5) of the Criminal Justice and Immigration Act 2008 (breach of condition imposed on designated person).

(12) For the purposes of references in this Order to the prevention of illegal working in licensed premises, a person is working illegally if by doing that work at that time the person is committing an offence under section 24B of the Immigration Act 1971.”

Article 83

24. After Article 83 insert—

“83A Questions about leave to enter or remain in the UK

(1) In proceedings on an application made to a court under this Order, the court is not entitled to entertain any question as to whether an individual should be, or should have been, granted leave to enter or remain in the United Kingdom.

(2) On an appeal from a decision of a court on an application made to it under this Order, the court hearing the appeal is not entitled to entertain any question as to whether—

- (a) an individual should be, or should have been, granted leave to enter or remain in the United Kingdom, or
- (b) an individual has, after the date of the decision being appealed against, been granted leave to enter or remain in the United Kingdom.”

PART 6 TRANSITIONAL PROVISION

25. The amendments of Articles 4, 16, 22, 26 and 27 of, and Schedules 1, 4, 5 and 6 to, the 1996 Order made by regulations 5, 7, 9, 10, 11(3) and 13 to 16 respectively do not apply in relation to applications made before the coming into force of these Regulations.

26. The amendment of Article 13 of the 1996 Order made by regulation 6 does not apply in relation to a licence granted pursuant to an application made before the coming into force of that regulation.

27. The amendment of Article 21 of the 1996 Order made by regulation 8 does not apply in relation to a licence renewed on an application made before the coming into force of that regulation.

28. If an individual holds a licence to which regulation 26 or 27 applies, the licence may not be renewed at any time when the individual is resident in the United Kingdom unless at that time the individual is entitled to work in the United Kingdom (within the meaning of the 1996 Order).

29. The amendment of Article 27(1) of the 1996 Order made by regulation 11(2) does not apply in relation to a protection order made pursuant to an application made before the coming into force of that regulation.

30. The amendments of Articles 73 and 75 of the 1996 Order made by regulations 20 and 21 apply on and after the coming into force of those regulations in relation to—

- (a) licences granted or renewed before, on or after the coming into force of those regulations, and
- (b) offences committed before, on or after the coming into force of those regulations.

Home Office
Date

Name
Minister of State

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations apply to Northern Ireland and amend the Northern Ireland (Licensing) Order 1996 (S.I. 1996/ 3158 (N.I. 22)) (“the 1996 Order”). They are made under section 34 of the Immigration Act 2016 (2016 c xx) and make provision having similar effect to the amendments made to the Licensing Act 2003 (2003 c. 17) by Schedule 3 to the 2016 Act in relation to alcohol licensing in Northern Ireland.

Part 2 of the Regulations amends article 2 of the 1996 Order (introductory) to provide a definition of an individual who is entitled to work in the United Kingdom.

Part 3 of the Regulations amends the Part 2 of the 1996 Order (general licensing system).

Regulation 5 amends article 4 of the 1996 Order to provide that a licence may only be granted to an individual who is resident in the United Kingdom if that person is entitled to work in the United Kingdom. Regulations 7, 9 and 10, which amend articles 16, 22 and 26 of the 1996 Order respectively, make similar provision in respect of the renewal and transfer of licences and protection orders.

Regulation 6, which amends article 13 of the 1996 Order, provides that a licence granted to an individual ceases to be in force if the licence holder ceases to be entitled to work in the United Kingdom and regulation 8 makes similar provision in respect of renewed licences.

Regulation 11 makes consequential provision in respect of protection orders and regulation 12 provides for the temporary continuance of licences which cease to be in force by virtue of the amendments made by these Regulations.

Regulations 13 to 16 amend Schedule 1, 4, 5 and 6 to the 1996 Order respectively which deal with the procedure for applications for licences, their transfer and renewal and for protection orders.

Part 4 amends Part 5 of the 1996 Order (enforcement). Regulation 18 amends article 71 of the 1996 Order to make provision for immigration officers to enter and inspect licensed premises (or adjoining premises or those near licensed premises) for the purpose of determining whether an immigration offence is being committed in connection with the sale of intoxicating liquor by retail.

Regulation 19 amends article 72 of the Order to enable the Secretary of State to apply for the suspension of a licence and regulation 20 amends article 73 to deal with the situation where a licence holder commits an immigration offence.

Part 5 of the Regulations makes further consequential amendments to the 1996 Order. Regulation 23 amends article 2 (definitions) and regulation 24 amends article 83 of the 1996 Order to provide that on an appeal in relation to a licensing decision, the court cannot entertain any question as to whether a person should be, or should have been, granted leave to enter or remain in the United Kingdom or a person has, after the date of the licensing decision, been granted leave to enter or remain in the United Kingdom.

Part 6 of the Regulations makes transitional provision.