

Neutral Citation No: [2023] NICty 1

Ref: [2023] NICty 1

*Judgment: approved by the court for handing down*

*(subject to editorial corrections)\**

*Delivered: 12/06/2023*

IN THE COUNTY COURT FOR NORTHERN IRELAND

---

IN THE MATTER OF AN APPLICATION BY GLENTORAN PREMIER CLUB IN  
RESPECT OF PREMISES AT THE OVAL, PARKGATE DRIVE, BELFAST

---

AND IN RESPECT OF THE REGISTRATION OF CLUBS (NI) ORDER 1996, AS  
AMENDED

---

Mr Ryan Cushley BL (instructed by McKees Solicitors) for the Applicant  
The Attorney General for Northern Ireland as amicus

---

**HHJ GILPIN**

[1] The Oval Football Stadium (“The Oval”) situated at Parkgate Drive, Belfast, BT4 1EW, has been the home of Glentoran Football Club since the late nineteenth century.

[2] Part of the facilities provided at The Oval is a private members club, Glentoran Premier Club.

[3] On 11 June 2021 this court granted a Certificate of Registration under the Registration of Clubs (NI) Order 1996 to Glentoran Premier Club.

[4] The granting of this Certificate of Registration allowed Glentoran Premier Club to supply its members and their guests with intoxicating liquor on its club premises.

[5] Glentoran Premier Club’s premises are located on the first floor of what is described in a “context plan” before the court as the “main building” situated behind a covered stand at The Oval.

[6] As is made clear in “The Liquor Licensing Laws of Northern Ireland” McBrien, 2007, para 9.11, the granting of a Certificate of Registration does not make club premises ‘licensed premises’ within the meaning of the Licencing (NI) Order 1996.

[7] When a court considers an application for a Liquor Licence under the Licensing (NI) Order 1996, Order 48 Rule 6 (2) of the County Court Rules (NI) 1981, requires an applicant to prepare plans which show the part of the premises where it is intended to sell intoxicating liquor. Effectively the court then licences certain areas within the applicant's premises where intoxicating liquor may be sold.

[8] However, the situation is different in the case of an application for the grant of a Certificate of Registration for a registered club in that while the court considers the detailed layout of the club's premises based on the plans before it, which ordinarily will show the areas within the club premises where alcohol is to be served, the court does not licence specific areas within the club premises.

[9] On applying for a Certificate of Registration one of the issues the court must be satisfied before such a certificate is granted is whether the club premises "are in all respects suitable and proper having regard to the objects of the club and to the estimated maximum numbers of members of the club." [Article 5(5)(c) Registration of Clubs (NI) Order]

[10] In relation to alterations to club premises after a Certificate of Registration had been granted the Registration of Clubs (NI) Order 1996 did not, as originally enacted, contain a procedure that alterations could be given the imprimatur of the court by means of a specific application. Rather as originally enacted if a registered club wished to alter its premises it was required to apply for a new Certificate of Registration under Article 5 of the Order. Mr Cushley in his written submissions described this process as "onerous, expensive and time-consuming."

[11] This was in contrast with the situation which pertained for licensed premises under the Licensing (NI) Order 1996. Since the Licensing (NI) Order 1996 was first enacted it contained a specific procedure, set out in Article 31, which applies to certain alterations to the licenced premises after the original grant of a licence requiring the imprimatur of the court. This process was a less onerous one than having to apply for a new licence.

[12] The Registration of Clubs (NI) 1996 Order was however amended in various respects by The Licensing and Registration of Clubs (Amendment) Act (NI) 2021 ("the 2021 Act"). By reason of s29 of the 2021 Act, Article 12A was introduced into the 1996 Order. This new article came into effect on 1 October 2022. Article 12A mirrors, mutatis mutandis, Article 31 of the Licensing (NI) Order 1996. As the Explanatory Memorandum to the 2021 Act says of s29 "The provision requires a registered club to obtain the consent of a court before making certain specified alterations to its premises, as is already the case for licensed premises under the provisions of the Licensing Order."

[13] Article 12A is entitled "Consent required for certain alterations to premises." It provides:

“12A(1) An alteration shall not, subject to paragraph (2), be made to the premises of a registered club if the alteration –

- (a) gives increased facilities for drinking in any part of the premises which contains a bar; or
- (b) adds to any part of the premises which contains a bar or substitutes one such part of the premises for another; or
- (c) conceals from observation a part of the premises in which intoxicating liquor is supplied; or
- (d) affects the means of passage between a part of the premises which contains a bar and the remainder of the premises or any road or other public place.

(2) An alteration such as is mentioned in paragraph (1) may be made if –

- (a) an application under this Article has been made by the secretary of the club to a county court and the court has made an order consenting to the alteration; or
- (b) the alteration is required by order of some lawful authority and, before the alteration is made, notice of the requirement is served by the secretary of the club on the clerk of petty sessions.”

[14] Article 12A thus requires, save for the circumstances set out in Article 12A(2)(b), that from 1 October 2022, a registered club must obtain the consent of the court before making certain specified alterations to its club premises. As the Attorney General put it:

“In short, alterations which affect or could relate to the supply and drinking of alcohol cannot be made without consent of the county court.”

[15] However, if a registered club makes such alterations without the approval of the court, the court may order the registered club to restore the club premises to their original condition as far as is practicable within a period specified.

[16] In this application Glentoran Premier Club wish to make certain changes to the club premises and in doing so have sought the consent of the court pursuant to Article 12A.

[17] By a Notice of Application dated 10 February 2023 Glentoran Premier Club made application to the court seeking consent to their proposals. The application is advanced under Article 12A (1)(a) namely that the 'alterations' proposed gives increased facilities for drinking in any part of the club premises which contains a bar.

[18] In addition to filing the Notice of Application in the court it was served on the relevant District Unit Commander of the Police Service of Northern Ireland and on the owner of The Oval, Glentoran Recreation Company Limited, in compliance with the requirements of the Order.

[19] Plans dated February 2023 were attached to the Notice of Application showed the alterations Glentoran Premier Club then wished to make. The initial proposed alterations were described as the "construction of a new hospitality hub and a separate new bar on the ground floor." A "stadium bar" was proposed to be located on the ground floor of the existing main building and a "hospitality area" was to be constructed on an area adjacent to the main building in which the club premises are located. The proposed "stadium bar" and "hospitality area" totalled 457sq/m.

[20] The present club premises consisting of the first-floor suite of lounge bars total 278sq/m. The initial proposals would have seen an increase in the size of the club premises in percentage terms of 160%.

[21] However, while the application was yet to be determined by the court, Glentoran Premier Club filed amended plans dated 3 May 2023. The amended plans show Glentoran Premier Club's intentions now being less extensive.

[22] What Glentoran Premier Club now intend to do is to construct what are termed two 'hospitality units' on an area adjacent to the main building where the existing club premises are located.

[23] Each of these hospitality units will contain a bar where intoxicating liquor can be supplied. The amended plans will increase the size of the club premises by 38.31%.

[24] An issue before the court is whether the addition of the two new 'hospitality units' is an 'alteration' to the club premises and thus one the court can determine under Article 12A.

[25] If the court determines that the application does not fall within the reach of Article 12A Glentoran Premier Club can, if it so wishes, apply pursuant to paragraph 1 (2) to Schedule 2 of the 1996 Order for a new Certificate of Registration to cover not only the existing the club premises but also the two proposed hospitality units.

[26] What constitutes an alteration is not defined in the 1996 Order. As the Attorney General put it “the court is not limited or guided by the statutory provision in this regard.” Indeed, there would appear to be no statutory provision to guide the court in its interpretation.

[27] In my view an alteration encompasses both a change to club premises without the footprint of them being extended but also a modest extension to them where the essence of the existing club premises remain inviolate.

[28] Thus, if the club premises that were the subject of scrutiny by the court when the Certificate of Registration was granted are proposed to be altered in any of the ways set out in Article 12A (1)(a)-(d) an application should be made to the court for an Order consenting to the alteration.

[29] However, the situation in the instant case is different in that Glentoran Premier Club wish to extend its club premises beyond that which was considered by the court when the Certificate of Registration was granted. In this situation where a registered club has made an application under Article 12A the court must come to a view as to whether what is proposed by the registered club is an alteration to the club premises.

[30] In *Re Ultimate Leisure Limited's Application* [2002] 10 BNIL 60 HHJ Hart QC considered an application under Article 31 of the Licensing (NI) Order 1996 in which the applicant sought consent to expand the extent of their licenced premises in Belfast by some 32%. The judge noted that unlike an application for a new licence when an applicant brings an application under Article 31 there is no requirement to advertise the application; there is limited scope for objectors to object upon the grounds permitted in application for a new licence nor is there a need for an applicant to prove the number of licenced premises in the vicinity is inadequate ie they are not required to establish a need for the proposed increase in the licensed premises. The judge expressed a view that Article 31 was open to abuse by those who sought to expand their licensed premises not because of need but rather because of greed without giving notice to others who might wish to object. To guard against such an abuse occurring HHJ Hart QC said that “the long-established practice” of judges rarely permitting applications under Article 31 where the proposed increase in the licenced area was more than “10 to 15%” was “an appropriate one and should be followed.”

[31] In light this HHJ Hart QC held that the court should firstly consider whether the increase in the licenced area exceeds 15% and if it does:

“the court should consider whether there are any exceptional circumstances justifying an application being brought by Article 31 rather than by way of an application for a new licence.” [para 10]

[32] In relation to the situation relating to registered clubs I accept the submission of the Attorney General that this court is not bound by the practice adopted in Licensing Order cases.

[33] Glentoran Premier Club go further and submit I should not adopt that procedure. They offer various reasons why I should not do so. These include that while in Licencing Order cases it is not uncommon for objections, often by commercial entities, to arise which can lead to contentious hearings this is rarely the case in registered club applications; that the objectors specified in Article 12A namely the police and the owner of the club premises offer sufficient protection; that Licensing Order cases require a greater degree of scrutiny by the court as licensed premises are open to the public at large whereas registered clubs have a restricted clientele; that in an application for a new licence or certificate and the renewal of same different procedures exist between the two statutory regimes. Furthermore, Glentoran Premier Club submit that what it terms “additional requirements” that apply to a registered club when seeking a new Certificate do not apply when a new liquor licence is sought speak to the legislature never intending to restrict an application under Article 12A in the way that occurs for Article 31 applications. Glentoran Premier Club also submit that the lack of a provisional grant process for registered clubs means that there is no practical process a registered club can follow if it wants to carry out a “major alteration” to its club premises. Glentoran Premier Club submit the absence of a provisional grant process leaves “a registered club in a difficult position regarding the practicalities of making alterations if it cannot avail of Article 12A of the Order.”

[34] In my view a court considering an application concerning ‘alterations’ under the Registration of Clubs (NI) Order 1996 needs to exercise caution in relation the applicability of what HHJ Hart QC said in Ultimate Leisure Limited’s application about Article 31 of the Licensing (NI) Order 1996 given various differences in the underlying statutory regimes.

[35] That said where the proposed changes to the premises of a registered club involve an increase in the floor area the court may take the view the increase is of such a modest extent that the essence of the club premises remain inviolate and thus what is proposed can properly be considered an alteration.

[36] In relation to the instant application, I heard evidence from an architect retained by Glentoran Premier Club, Paul McCollam, who had prepared the plans that were before the court in 2021 when the Certificate of Registration was granted, the initial plans attached to the Notice of Application and the amended plans now before the court.

[37] I also heard evidence from Gordon Davidson, the vice-chair of the Glentoran Premier Club as to, inter alia, the thinking behind the Registered Club’s wish to install the hospitality units. Mr Davidson explained they will afford members and

their guests and opportunity to watch matches played at The Oval from club premises.

[38] What is sought by Glentoran Premier Club is an increase in the floor area of its club premises of some 38.31% by the construction of two hospitality units which do not abut the club's existing 1<sup>st</sup> floor premises; are sited a short distance from them; which are to be found on ground rather than 1<sup>st</sup> floor level and from which matches can now be watched. In these circumstances I do not consider what is sought by Glentoran Premier Club can properly be considered an "alteration" to the existing club premises.

[39] Specifically, as regards Article 12A (1)(a) under which the application is brought the proposals do not give "increased facilities for drinking in any part of the premises which contains a bar."

[40] I therefore refuse the application of Glentoran Premier Club.