



# Licensing Act 1964

## 1964 CHAPTER 26

### PART I

#### THE GENERAL LICENSING SYSTEM

##### *Grant of justices' licence*

### **3 Grant of justices' licence**

- (1) Licensing justices may grant a justices' licence to any such person, not disqualified under this or any other Act for holding a justices' licence, as they think fit and proper.
- (2) A justices' licence may be granted as a new licence or by way of renewal, transfer or, subject to section 93(4) of this Act, removal.
- (3) In this Act—
  - (a) renewing a justices' licence means granting a justices' licence for any premises to the holder of a similar licence in force for those premises ;
  - (b) removing a justices' licence means taking it from the premises for which it was granted and granting it for other premises;
  - (c) transferring a justices' licence means granting it for any premises to a person in substitution for another person who holds or has held a licence for those premises.
- (4) Schedule 2 to this Act shall have effect with regard to the procedure to be followed in relation to applications for the grant of a justices' licence.

### **4 New licences**

- (1) Subject to the provisions of Part IV of this Act, licensing justices granting a new justices' on-licence, other than a licence for the sale of wine alone or British wine alone, may attach to it such conditions governing the tenure of the licence and any other matters as they think proper in the interests of the public; but no payment may be required in pursuance of a condition attached under this subsection.

- (2) Subject to section 113 of this Act, licensing justices shall not grant a new justices' on-licence for premises unless the premises are in their opinion structurally adapted to the class of licence required.

## **5 Removals**

- (1) Subject to the following provisions of this Act, licensing justices shall have the same power to grant a removal of a justices' licence as they have to grant a new licence.
- (2) Licensing justices may grant an ordinary removal to premises in their licensing district from any other premises, whether in that district or not.
- (3) An application for a removal shall be made by the person wishing to hold the licence after the removal.
- (4) Subject to sections 113, 122 and 126 of this Act, licensing justices shall not grant the removal of a justices' on-licence to any premises unless in their opinion the premises are structurally adapted to the licence.
- (5) Licensing justices shall not grant an ordinary removal unless they are satisfied that no objection to the removal is made—
- (a) where the licence is a justices' on-licence, by the owner of the premises from which it is sought to remove the licence or by the holder of the licence,
  - (b) where the licence is a justices' off-licence, by the holder of the licence,
- or by any person other than the owner of the said premises and the holder of the licence or, as the case may be, other than the holder of the licence, whom the justices consider to have a right to object to the removal.
- (6) In this Act, " ordinary removal" means a removal which is neither a special removal (as defined in section 15(2) of this Act) nor a planning removal or temporary premises removal (as defined in sections 121(2) and 126(2) of this Act respectively).

## **6 Provisional grant of new licence or removal**

- (1) Where licensing justices are satisfied, on application made by a person interested in any premises which are—
- (a) about to be constructed or in the course of construction for the purpose of being used as a house for the sale of intoxicating liquor (whether for consumption on or off the premises); or
  - (b) about to be altered or extended or in the course of alteration or extension for that purpose (whether or not they are already used for that purpose);
- that the premises, if completed in accordance with plans deposited under this Act, would be such that they would have granted a justices' on-licence or a justices' off-licence for the premises, they may make a provisional grant of such a licence for those premises.
- (2) Any such application may be made either for the provisional grant of a new licence or for a provisional removal of a licence to the premises, and the grant may be made accordingly.
- (3) On an application by the holder of a provisional licence, licensing justices may consent to any modifications of the deposited plans where, in their opinion, the premises, if

completed in accordance with the modified plans, will be fit and convenient for their purpose.

(4) Licensing justices shall, after such notice has been given as they may require, declare a provisional grant final on being satisfied—

- (a) that the premises have been completed in accordance with the plans deposited, or in accordance with those plans with modifications consented to under the preceding subsection; and
- (b) that the holder of the provisional licence is not disqualified by this or any other Act for holding a justices' licence and is in all other respects a fit and proper person to hold a justices' licence ;

and until the provisional grant has been declared final it shall not be valid.

(5) If on an application for the provisional grant of a justices' licence the applicant deposits, instead of plans of the premises, a plan sufficient to identify the site of the premises, together with such description of the premises as will give a general indication of their proposed size and character (with reference in particular to the sale of intoxicating liquor), then—

- (a) the licensing justices shall deal with the application as if the site plan and description deposited instead were the deposited plans, and shall assume that the premises will be fit and convenient for their purpose; but
- (b) any provisional grant of a licence made on the application shall become ineffective unless affirmed under subsection (6) of this section in pursuance of an application made at a licensing sessions held within the twelve months following the date of the grant (or, where there is an appeal, the date the appeal is disposed of).

(6) Where licensing justices make a provisional grant of a licence by virtue of subsection (5) of this section the holder of the provisional licence may apply for the grant to be affirmed, and shall give notice of the application and deposit plans, as if he were applying (otherwise than under that subsection) for the grant of the licence; and the licensing justices shall affirm the provisional grant if satisfied that the premises, if completed in accordance with the plans deposited, will be fit and convenient for their purpose.

## **7 Renewals**

(1) Licensing justices may not renew a justices' licence at transfer sessions, except where the licence was due for renewal at the preceding general annual licensing meeting and the justices are satisfied that the applicant had reasonable cause for not applying for renewal at that meeting.

(2) A person intending to oppose an application for the renewal of a justices' licence shall give notice in writing of his intention to the applicant, specifying in general terms the grounds of the opposition, not later than seven days before the commencement of the licensing sessions at which the application is to be made, and unless notice has been so given the licensing justices shall not entertain the objection, except as provided by subsection (3) of this section.

(3) Where notice has not been given as required by subsection (2) of this section, the justices may, on objection being made to the renewal, adjourn consideration of the application to a day of which they shall give notice to the applicant and the objector,

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*Status: This is the original version (as it was originally enacted).*

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and shall on that day hear the application and the objection as if notice of intention to oppose had been given.

- (4) Evidence given on an application for the renewal of a justices' licence shall be given on oath.
- (5) Where the holder of a justices' licence fails to apply for its renewal at the general annual licensing meeting at which it is due for renewal, and the licence expires in consequence of his failure, an application by him for a similar licence for the same premises shall be treated as an application for renewal, and the grant of the licence applied for shall be treated as a renewal of the expired licence, if the application is made not later than the next general annual licensing meeting and the licensing justices are satisfied that he had reasonable cause for his failure.

## **8 Transfers**

- (1) Subject to sections 138 and 145 of this Act, licensing justices shall not grant a transfer of a justices' licence except in the following cases and to the following persons, that is to say—
  - (a) where the holder of the licence has died, to his representatives or the new tenant or occupier of the premises;
  - (b) where the holder of the licence becomes incapable through illness or other infirmity of carrying on business under the licence (and notwithstanding that the licence may have ceased to be in force before the transfer), to his assigns or the new tenant or occupier of the premises;
  - (c) where the holder of the licence is adjudged bankrupt, or a trustee is appointed in pursuance of a composition or scheme within the meaning of the Bankruptcy Act 1914 to administer the property or manage the business of the holder of the licence, or a trustee is appointed under a deed of arrangement within the meaning of the Deeds of Arrangement Act 1914 for the benefit of the creditors of the holder of the licence, to his trustee or the new tenant or occupier of the premises;
  - (d) where the holder of the licence has given up or is about to give up, or his representatives have given up or are about to give up, occupation of the premises, to the new tenant or occupier of the premises or the person to whom the representatives or assigns have, by sale or otherwise, bona fide conveyed or made over the interest in the premises;
  - (e) where the occupier of the premises, being about to quit them, has wilfully omitted or neglected to apply for the renewal of the licence, to the new tenant or occupier of the premises ;
  - (f) where the owner of the premises or some person on his behalf has been granted a protection order under section 10(3) of this Act and application for the transfer is made at the first or second licensing sessions begun after the making of that order, to the owner or person applying on his behalf.
- (2) For the purposes of paragraph .(d) of the preceding subsection, a person occupying premises for the purpose of carrying on business under a licence shall be treated as giving up occupation on his giving up the carrying on of the business, notwithstanding that he remains temporarily in occupation of the premises or part of them.
- (3) The foregoing provisions of this section, except paragraphs (e) and (f) of subsection (1), shall apply in relation to the transfer of a provisional licence as if the

licence were in force, and shall, as so applying, be construed as if " occupation " included intended occupation, and similarly as respects other expressions.

- (4) Licensing justices may, at their general annual licensing meeting, make regulations determining the time that must elapse after the hearing of an application for transfer before another such application may be made in respect of the same premises; but licensing justices may in any particular case dispense with the observance of regulations made under this subsection.

## **9 Persons and premises disqualified for holding or receiving a justices' licence**

- (1) Without prejudice to the provisions of this or any other Act whereby a person may be disqualified for holding a justices' licence, the following persons shall be so disqualified, that is to say—
- (a) a sheriff's officer or officer executing the legal process of any court;
  - (b) a person convicted, whether under this Act or otherwise, of forging a justices' licence or making use of a forged justices' licence knowing it to have been forged;
  - (c) a person convicted, whether under this Act or otherwise, of permitting to be a brothel premises for which at the time of the conviction he held a justices' licence.
- (2) Where within a period of two years two persons severally holding a justices' licence for any premises forfeit their licences, the premises shall be disqualified for receiving a justices' licence for a period of twelve months following the second forfeiture.
- (3) Premises shall be disqualified for receiving a justices' licence if they are situated on land acquired or appropriated by a special road authority, and for the time being used, for the provision of facilities to be used in connection with the use of a special road provided for the use of traffic of class I (with or without other classes).
- (4) For the purpose of subsection (3) of this section—
- (a) " special road " and " special road authority " have the same meanings as in the Highways Act 1959, except that " special road " includes a trunk road to which by virtue of section 19 of that Act the provisions of that Act apply as if the road were a special road ; and
  - (b) " class I " means class I in Schedule 4 to that Act as varied from time to time by any order under section 12 of that Act, but if that Schedule is amended by such an order so as to add to it a further class of traffic, the order may adapt the reference in subsection (3) of this section to traffic of class I so as to take account of the additional class.
- (5) The provisions of subsections (2) and (3) of this section shall be without prejudice to the disqualification under any other Act of premises for receiving a justices' licence.
- (6) A justices' licence purporting to be held by any person disqualified for holding a licence, or attached to premises disqualified for receiving a licence, shall be void.