



# Licensing Act 1964

## 1964 CHAPTER 26

### PART I

#### THE GENERAL LICENSING SYSTEM

##### *Old on-licences*

## **12 Restricted power of licensing justices to refuse renewal or transfer of old on-licences**

(1) In this Act—

" old on-licence " means a justices' on-licence, other than one for the sale of wine alone or British wine alone, granted by way of renewal from time to time of a licence in force on 15th August 1904, or of a licence that before that day had been provisionally granted and confirmed under section 22 of the Licensing Act 1874 where the grant and confirmation have been subsequently declared final, except that it does not include a licence varied under section 37 of this Act or granted by way of renewal from time to time of a licence so varied ; and

" old beerhouse licence " means an old on-licence for the sale of beer or cider, with or without wine, granted by way of renewal from time to time of a licence for premises for which a corresponding excise licence was in force on 1st May 1869 ;

no account being taken of any transfer nor, except for the purpose of determining whether a licence is an old beerhouse licence, of any removal.

(2) Subject to any disqualification of the applicant or of the premises to which the application relates, licensing justices shall not refuse an application for the renewal of an old on-licence except on one or more of the following grounds, that is to say—

- (a) in the case of an old beerhouse licence, those specified in subsection (3) of this section;
- (b) in the case of any other old on-licence, those specified in subsection (4) of this section ;

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and, in either case, the ground that there has been entered in the register of licences a conviction of bribery or treating made in pursuance of section 146(6) of the Representation of the People Act 1949.

- (3) The renewal of an old beerhouse licence may be refused on the ground—
- (a) that the applicant has failed to produce satisfactory evidence of good character; or
  - (b) that the house or shop to which the application relates, or any adjacent house or shop owned or occupied by him, is of a disorderly character, or frequented by thieves, prostitutes or persons of bad character; or
  - (c) that a licence previously held by the applicant for the sale of wine, spirits, beer or cider has been forfeited for his misconduct, or that he has previously been adjudged for his misconduct disqualified for receiving such a licence or for selling wine, spirits, beer or cider.
- (4) The renewal of an old on-licence other than an old beerhouse licence may be refused on the ground—
- (a) that the applicant is not a fit and proper person to hold the licence; or
  - (b) that the licensed premises have been ill-conducted or are structurally deficient or structurally unsuitable,
- and for the purposes of paragraph (b) of this subsection, premises shall be deemed to have been ill-conducted if, among other things, the holder of the licence has persistently and unreasonably refused to supply suitable refreshment, other than intoxicating liquor, at a reasonable price, or has failed to fulfil any reasonable undertaking given to the justices on the grant of the licence.
- (5) Where an application is made for the renewal of an old on-licence and the licensing justices ask the applicant to give an undertaking, they shall adjourn the hearing of the application and cause notice of the undertaking for which they ask to be served on the registered owner of the premises and shall give him an opportunity of being heard.
- (6) Licensing justices refusing to renew an old on-licence shall specify to the applicant in writing the grounds of their refusal.
- (7) Subsections (2) to (6) of this section shall apply to the transfer of an old on-licence as they apply to the renewal of such a licence, except that the transfer of an old beerhouse licence may also be refused on the ground that the applicant is not a fit and proper person to hold the licence.

### **13 Reference of application for renewal or transfer to compensation authority**

- (1) Subject to section 125 of this Act, where the licensing justices, on consideration in accordance with this Act of an application for the renewal or transfer of an old on-licence, are of opinion that the question of renewal or transfer requires consideration on grounds other than those on which they can refuse it, they shall refer the matter to the compensation authority together with their report thereon.
- (2) The compensation authority shall consider all reports made to them under this section and may refuse the renewal or transfer of any licence to which any such report relates, but shall not do so without giving an opportunity to be heard—
- (a) to the persons interested in the licensed premises ; and

- (b) unless it appears to the compensation authority unnecessary, to any other persons appearing to them to be interested in the question of the renewal or transfer, including the licensing justices.

#### **14 Compensation on refusal to renew or transfer an old on-licence**

- (1) If the compensation authority refuse to renew or transfer an old on-licence, they shall pay as compensation to the persons interested in the licensed premises the difference between the value of those premises as licensed and their value as unlicensed.
- (2) For the purposes of subsection (1) of this section the licence shall be assumed to be subject to the same conditions of renewal as were applicable immediately before 15th August 1904; and there shall be assumed to be included in the value of the licensed premises the amount of the depreciation of the trade fixtures arising by reason of the refusal to renew or transfer the licence.
- (3) The amount to be paid as compensation shall, in default of agreement between the several persons appearing to the compensation authority to be interested in the licensed premises and the authority, be determined by the Commissioners of Inland Revenue in the same manner, and subject to the same appeal under section 10 of the Finance Act 1894 to the High Court, as on the valuation of an estate for the purpose of estate duty; and the amount of compensation shall be divided among the persons interested in the licensed premises, including the holder of the licence, in such shares as the compensation authority may determine.
- (4) For the purposes of subsection (3) of this section regard shall be had not only to the legal interest of the holder of the licence in the premises or trade fixtures, but also to his conduct and the length of time that he has held the licence; and, notwithstanding any agreement to the contrary, a tenant who is the holder of a justices' licence shall not receive less than he would be entitled to as tenant from year to year of the licensed premises.
- (5) The compensation authority may refer to the county court any question arising on the division of the compensation that the authority consider can be more conveniently determined by that court.
- (6) Any costs incurred by the Commissioners of Inland Revenue on an appeal from their decision to the High Court under this section shall be paid out of the amount of the compensation unless the High Court orders those costs to be paid by some other party to the appeal.

#### **15 Special removals of old on-licences**

- (1) Where application is made for the special removal of an old on-licence from any premises in a licensing district to premises in the same district on the ground—
  - (a) that the premises for which the licence was granted are or are about to be pulled down or occupied under any Act for the improvement of highways, or for any other public purpose; or
  - (b) that the premises for which the licence was granted have been rendered unfit for use for the business carried on there under the licence by fire, tempest or other unforeseen and unavoidable calamity;

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the provisions of sections 12 to 14 of this Act shall apply as they apply to a renewal, subject to the restrictions on removals imposed by Parts VI and VII of this Act and subject to subsections (3) and (4) of this section.

- (2) A removal to which those provisions apply as aforesaid is in this Act referred to as a special removal.
- (3) In the application of those provisions to the special removal of a licence section 12 of this Act shall have effect as if the words " that the premises to be licensed " were inserted in subsection (4)(b) before the words " are structurally deficient or structurally unsuitable ".
- (4) Where the occasion for an application for a special removal is the pulling down of the licensed premises or those premises having been rendered unfit by fire, tempest or other calamity, any compensation for the refusal of the grant shall be determined as if the premises were in the same condition as at the last renewal or transfer of the licence.
- (5) Notwithstanding anything in section 6 of this Act, no provisional grant shall be made of a special removal.
- (6) Section 8(4) of this Act shall apply in relation to applications for special removals as it applies in relation to applications for transfers.

## **16 Compensation authorities**

- (1) The following shall be the compensation authority for the purposes of this Act, that is to say.—
  - (a) for a county borough, it shall be a committee of the borough justices, which shall be known as the borough compensation committee;
  - (b) for the City of London, it shall be a committee of the justices for the City ; and
  - (c) for any other licensing district, it shall be a committee, which shall be known as the county compensation committee, of the court of quarter sessions for the county which is or includes that licensing district;
 and compensation committees shall be constituted and their procedure regulated in accordance with Schedule 3 to this Act.
- (2) A compensation authority shall in each year make such returns to the Secretary of State as he may require about their proceedings as compensation authority and the proceedings of licensing justices in referring to the compensation authority the question of the renewal, transfer or special removal of old on-licences.

## **17 Compensation fund**

- (1) A compensation authority shall in each year impose charges to be payable in respect of—
  - (a) the renewal of old on-licences for premises in their area; and
  - (b) the transfer of such licences and the removal of old on-licences to premises in their area, in any case where the duration of the licence is extended by the transfer or removal;
 except in a year in which they certify to the Secretary of State that it is unnecessary to do so.

- (2) In imposing those charges the compensation authority shall fix a sum not exceeding one hundred pounds as the maximum amount of such a charge; and the charge payable in respect of any licence shall be an amount which bears to the sum so fixed the same proportion as the charge in respect of a renewal of that licence in 1958 bore (or, as the case may be, would, if payable, have borne) to the maximum charge which was or might have been imposed in that year.
- (3) Charges payable under this section on the renewal, transfer or removal of a licence shall be levied and paid together with, and as part of the duties on, the corresponding excise licence; and the Commissioners shall keep a separate account of the amount produced by the charges in the area of any compensation authority and pay the amount over in each year to the authority in accordance with rules made by the Treasury.
- (4) The holder of a licence paying a charge under this section may, notwithstanding any agreement to the contrary, make a deduction from rent equal either to the percentage of the charge specified in Schedule 4 to this Act or to one half of the rent, whichever is the less; and a person receiving rent from which a deduction has been made under this subsection may make the same deduction from rent payable by him.
- (5) The compensation authority shall pay the moneys received by them on account of charges under this section, or received by them from any other source for the payment of compensation under this Act, into a separate account under their management, in this Act referred to as the " compensation fund ".
- (6) The compensation authority shall pay out of the compensation fund—
  - (a) the expenses of the authority in paying compensation under this Act or incurred otherwise by them in the exercise of their functions as compensation authority;
  - (b) such expenses of the licensing justices incurred in referring to the authority any question of the renewal, transfer or special removal of old on-licences as the compensation authority may allow;
  - (c) such expenses of the licensing justices incurred in the grant of new justices' on-licences as the compensation authority may allow;and the compensation authority in the exercise of their powers shall have regard to the funds available for the purpose.
- (7) The compensation authority may, with the consent of the Secretary of State, borrow on the security of the compensation fund for the purpose of paying any compensation under this Act.

## **18 Provisions applicable to purchase under certain statutory powers of premises to which old on-licence is attached**

- (1) Subject to section 125(1) of this Act, where land purchased under Part III of the Housing Act 1957, Part IV of the Town and Country Planning Act 1947, or Part V of the Town and Country Planning Act 1962 comprises premises for which an old on-licence is in force, the following provisions shall have effect:—
  - (a) a purchasing authority, before purchasing the premises, may undertake that if renewal of the licence is refused they will pay to the compensation authority towards the compensation payable on the refusal under this Part of this Act such contribution as may be specified in the undertaking; and any sum payable by the purchasing authority in pursuance of such an undertaking shall be treated as part of their expenses in purchasing the land;

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- (b) if, after purchasing or contracting to purchase the premises, the purchasing authority intimate to the licensing justices that they are willing to surrender the licence, the licensing justices may refer the matter to the compensation authority; and that authority, on being satisfied that they might properly under section 13 of this Act have refused to renew the licence, if not surrendered, shall contribute out of the compensation fund towards the compensation paid by the purchasing authority for the purchase of the premises a sum not exceeding the compensation that would have been payable under this Part of this Act on refusal to renew the licence.
- (2) In this section " purchasing authority" means a local authority purchasing under Part III of the Housing Act 1957 or a Minister, local authority or any statutory undertakers purchasing under Part V of the Town and Country Planning Act 1962 and, in subsection (1)(b), includes a Minister, local authority or statutory undertakers having purchased under Part IV of the Town and Country Planning Act 1947.