



# Licensing Act 1964

## 1964 CHAPTER 26

### PART II

#### SALE AND SUPPLY OF INTOXICATING LIQUOR IN CLUB PREMISES

##### *Registered clubs*

#### **40 Registration of clubs**

- (1) A club is registered, within the meaning of this Act, in respect of any premises if and so long as it holds for those premises a certificate under this Part of this Act of a magistrates' court (in this Act referred to as a registration certificate).
- (2) Subject to the provisions of this section and of section 50(4) of this Act, a registration certificate shall have effect for twelve months, but may be from time to time renewed, and may at any time be surrendered by the club.
- (3) Any renewal of a registration certificate shall be for one year from the expiry of the period for which the certificate was issued or last renewed, except that on the second or any subsequent renewal the certificate may, if the court thinks fit, be renewed for such number of years, not exceeding ten, from the expiry of that period as may be requested in the application for renewal or for any less number of years.
- (4) An application by a club for the issue or renewal of a registration certificate shall be made to a magistrates' court and shall comply with the requirements of Schedule 5 to this Act; and the provisions of Schedule 6 to this Act shall have effect as regards the procedure for registration and related matters.
- (5) Where an application for the renewal of a registration certificate is made not less than twenty-eight days before the certificate is due to expire, the certificate shall continue in force until the application is disposed of by the magistrates' court or the court otherwise orders under paragraph 10 of Schedule 6 to this Act.
- (6) Where an application is duly made in accordance with this Part of this Act for the issue or renewal of a registration certificate, the magistrates' court shall not, in the

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absence of an objection duly made in accordance with this Part of this Act, refuse the application except as provided by the following provisions of this Part of this Act; and a magistrates' court shall state in writing the grounds of any refusal to issue or renew a registration certificate.

#### **41 Qualifications for registration**

- (1) A club shall only be qualified to receive a registration certificate (whether in the first instance or by way of renewal), if under the rules of the club—
  - (a) persons may not be admitted to membership or be admitted as candidates for membership to any of the privileges of membership, without an interval of at least two days between their nomination or application for membership and their admission; and
  - (b) persons becoming members without prior nomination or application may not be admitted to the privileges of membership without an interval of at least two days between their becoming members and their admission.
- (2) A club shall be qualified to receive a registration certificate for any premises (whether in the first instance or by way of renewal), only if—
  - (a) it is established and conducted in good faith as a club and has not less than twenty-five members ; and
  - (b) intoxicating liquor is not supplied, or intended to be supplied, to members on the premises otherwise than by or on behalf of the club ; and
  - (c) the purchase for the club, and the supply by the club of intoxicating liquor (so far as not managed by the club in general meeting or otherwise by the general body of members) is managed by an elective committee, as defined in Schedule 7 to this Act; and
  - (d) no arrangements are or are intended to be made—
    - (i) for any person to receive at the expense of the club any commission, percentage or similar payment on or with reference to purchases of intoxicating liquor by the club ; or
    - (ii) for any person directly or indirectly to derive any pecuniary benefit from the supply of intoxicating liquor by or on behalf of the club to members or guests, apart from any benefit accruing to the club as a whole and apart also from any benefit which a person derives indirectly by reason of the supply giving rise or contributing to a general gain from the carrying on of the club.
- (3) Subject to subsection (4) of this section, in determining whether a club is established and conducted in good faith as a club a magistrates' court may have regard—
  - (a) to any arrangement restricting the club's freedom of purchase of intoxicating liquor ; and
  - (b) to any provision in the rules, or arrangement, under which money or property of the club, or any gain arising from the carrying on of the club, is or may be applied otherwise than for the benefit of the club as a whole or for charitable, benevolent or political purposes; and
  - (c) to the arrangements for giving members proper information as to the finances of the club, and to the books of account and other records kept to ensure the accuracy of that information ; and
  - (d) to the nature of the premises occupied by the club.

- (4) Subject to section 49(2) of this Act, where the rules of a club applying for the issue or renewal of a registration certificate conform with Schedule 7 to this Act, the court shall assume, as regards any matters not raised by an objection duly made in accordance with this Part of this Act, that the club satisfies the conditions of paragraphs (a) to (c) of subsection (2) of this section and, in the case of a renewal, also the conditions of paragraph (d) of that subsection, except that the court may, if it sees fit, inquire whether there is any such arrangement or provision in the rules as is referred to in paragraph (a) or (b) of subsection (3) of this section, and, if so, whether it is such that the club ought not to be treated as established and conducted in good faith as a club.

#### **42 Modifications of registration qualifications for certain clubs**

- (1) In the case of a club which is a registered society within the meaning of the Industrial and Provident Societies Act 1893 or the Friendly Societies Act 1896—
- (a) any requirement of paragraph (c) of subsection (2) of section 41 of this Act that a matter shall be managed by an elective committee shall be treated as satisfied so long as the matter is under the control of the members or of a committee appointed by the members (and references in this Act to that subsection shall be taken as referring to it as modified by this paragraph) ; and
  - (b) the rules of the club shall be treated as conforming with Schedule 7 to this Act so long as they conform with that Schedule as regards voting at general meetings and as regards election or admission to membership.
- (2) Where the rules of a club make provision for a class of members to have limited rights or no rights of voting in relation to the affairs of the club, any question whether the requirements of the said paragraph (c) are satisfied in relation to the club, or whether the rules of the club conform with Schedule 7 to this Act shall, if the court determining the question so directs, be determined as if the exclusion of that class from voting to the extent provided for by the rules were authorised by the provisions of that Schedule as to voting at general meetings or elections; but the court shall not so direct unless satisfied that the provision so made by the rules is part of a bona fide arrangement made in the interests of the club as a whole and of that class of members for facilitating the membership of persons who are precluded by distance or other circumstances from making full use of the privileges of membership, and is not designed to secure for a minority of the members an unfair measure of control over the affairs of the club.

#### **43 Disqualification for and refusal of registration certificate**

- (1) A registration certificate shall not be issued or renewed, nor have effect, for premises disqualified by an order under section 47 of this Act for use for the purposes of a registered club, nor for licensed premises, nor for premises which include or form part of premises so disqualified or licensed premises; but this subsection does not prevent the issue or renewal for any premises of a registration certificate to take effect on their ceasing to be, include or form part of premises so disqualified or licensed premises.
- (2) A magistrates' court may refuse an application for the issue or renewal of a registration certificate, if it is proved that a person who, if a certificate is granted, will or is likely to take any active part in the management of the club during the currency of the certificate, is not a fit person, in view of his known character as proved to the court, to be concerned in the management of a registered club.

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- (3) A magistrates' court may refuse an application for the issue or renewal of a registration certificate—
- (a) if the premises or any premises including or forming part of them have been licensed premises within the twelve months preceding the making of the application but have ceased to be licensed premises by the forfeiture of the licence or by the refusal of an application to renew it; or
  - (b) if the club has other club premises which are licensed premises and the court is of opinion that the issue or renewal of the registration certificate is likely to give occasion for abuse by reason of any difference in the permitted hours in the premises or otherwise.

#### **44 Objections to and cancellation of registration certificate**

- (1) Objection to an application for the issue or renewal of a registration certificate for any premises may be made by the chief officer of police, by the local authority or by any person affected by reason of his occupation of or interest in other premises, and may be made on any one or more of the following grounds, that is to say—
- (a) that the application does not give the information required by this Part of this Act, or the information is incomplete or inaccurate, or the application is otherwise not in conformity with this Part of this Act;
  - (b) that the premises are not suitable and convenient for the purpose in view of (their character and condition and of the size and nature of the club ;
  - (c) that the club does not satisfy the conditions of subsections (1) and (2) of section 41 of this Act, or that the application must or ought to be refused under section 43 of this Act;
  - (d) that the club is conducted in a disorderly manner or for an unlawful purpose, or that the rules of the club are habitually disregarded as respects the admission of persons to membership or to the privileges of membership or in any other material respect;
  - (e) that the club premises or any of them (including premises in respect of which the club is not registered or seeking registration) are habitually used for an unlawful purpose, or for indecent displays, or as a resort of criminals or prostitutes, or that in any such premises there is frequent drunkenness, or there have within the preceding twelve months been illegal sales of intoxicating liquor, or persons not qualified to be supplied with intoxicating liquor there are habitually admitted for the purpose of obtaining it;
- and the court, if satisfied that the ground of objection is made out, may refuse the application and, in the case of an objection made on any of the grounds mentioned in paragraphs (a) to (c) of this subsection, shall do so unless in the case of an objection made on the ground mentioned in paragraph (b) the court thinks it reasonable not to, having regard to any steps taken or proposed to be taken to remove the ground of objection.
- (2) A complaint against a club for the cancellation of a registration certificate held by the club for any premises may be made in writing to a magistrates' court by the chief officer of police or by the local authority, and may be made on any ground on which objection might be made under paragraph (c), (d) or (e) of the preceding subsection to an application for the renewal of the certificate ; and the court, if satisfied that on such an objection the application for renewal must or ought to be refused on that ground, shall cancel the certificate.

#### **45 Inspection of premises before first registration**

- (1) Where a club applies for the issue of a registration certificate in respect of any premises, an officer of the local authority authorised in writing by that authority may, on giving not less than forty-eight hours' notice to the person signing the application and, if the premises are not occupied by the club, to the occupier, and on production of his authority, enter and inspect the premises at any reasonable time on such day, not more than fourteen days after the making of the application, as may be specified in the notice; and a constable authorised in writing by the chief officer of police shall have the like right to enter and inspect the premises, but a chief officer of police shall not so authorise a constable unless in his opinion special reasons exist making it necessary that the premises should be inspected for the proper discharge of his functions in relation to the registration of clubs.
- (2) Any person obstructing a constable or officer of a local authority in the exercise of the power conferred by this section shall be liable to a fine not exceeding five pounds.
- (3) If on an application by the chief officer of police or by the local authority it is made to appear to a magistrates' court that, after reasonable steps had been taken by and on behalf of the applicant to inspect the premises in good time under subsection (1) of this section, it was not possible to do so within the time allowed, the court may extend the time allowed.
- (4) Where a club applies for the renewal of a registration certificate in respect of different, additional or enlarged premises, the foregoing subsections shall have effect as if the application were, so far as relates to those premises, an application for the issue of a registration certificate.

#### **46 Rights of fire authorities in connection with registration of clubs**

- (1) As regards any matter affecting fire risks the local authority, if they are the fire authority, shall have the like rights in relation to the inspection of premises under section 45 of this Act on any application for the renewal of a registration certificate for the premises as they have in the case of an application for the issue of a certificate.
- (2) Where the local authority is not the fire authority, the clerk to the justices shall as soon as may be give the fire authority written notice of the making of an application for the issue or renewal of a registration certificate for any premises.
- (3) As regards any matter affecting fire risks a fire authority other than the local authority shall have the like rights—
  - (a) in relation to the inspection of premises under section 45 of this Act. and
  - (b) in relation to the making of objections, on the ground mentioned in paragraph (b) of section 44(1) of this Act. to the issue or renewal of a registration certificate,as the authority would have if they were the local authority.
- (4) In this section " fire authority" means, in relation to any premises, the authority discharging in the area where the premises are situated the functions of fire authority under the Fire Services Act 1947.

#### **47 Power to order disqualification of premises**

- (1) Subject to the following provisions of this section, where a club is registered in respect of any premises, and a magistrates' court cancels or refuses to renew the registration certificate for those premises on any ground mentioned in paragraph (c), (d) or (e) of section 44(1) of this Act, the court may order that, for a period specified in the order, the premises shall not be occupied and used for the purposes of any registered club.
- (2) The period specified in an order under this section shall not exceed one year unless the premises have been subject to a previous order under this section or to a similar order under any previous enactment about clubs, and shall not in any case exceed five years.
- (3) At any time while an order under this section is in force, a magistrates' court, on complaint made by any person affected by the order, may revoke the order or vary it by reducing the period of disqualification specified in it.
- (4) Any summons granted on a complaint under subsection (3) of this section for the revocation or variation of an order as respect any premises shall be served on the chief officer of police and on the local authority.
- (5) The foregoing provisions of this section do not apply where the premises in respect of which the club is registered are situated in the city of Oxford and the club is mainly composed of past or present members of the University of Oxford.

#### **48 Notification of alteration in rules of registered club**

- (1) Where any alteration is made in the rules of a club registered in respect of any premises, the secretary of the club shall give written notice of the alteration to the chief officer of police and to the clerk of the local authority.
- (2) If the notice required by this section is not given within twenty-eight days of the alteration, the secretary shall be liable to a fine not exceeding ten pounds.
- (3) Notwithstanding anything in section 104 of the Magistrates' Courts Act 1952, proceedings under this section for failing to give notice of an alteration of rules may be brought at any time within the twelve months following the date on which the alteration is made.

#### **49 Sale of intoxicating liquor by registered clubs**

- (1) Notwithstanding anything in any enactment, where a club is registered in respect of any premises, and the rules of the club provide for the admission to the premises of persons other than members and their guests and for the sale of intoxicating liquor to them by or on behalf of the club for consumption on the premises, then subject to the following provisions of this section the authority of a licence shall not be required for such a sale, and intoxicating liquor may be supplied to those persons and their guests for consumption on the premises as it may to members and their guests.
- (2) In determining for the purposes of this Part of this Act whether a club is established and conducted in good faith as a club, a magistrates' court may, notwithstanding anything in subsection (4) of section 41 of this Act, have regard to any provision made by the rules for the sale of intoxicating liquor by or on behalf of the club, and to the use made or intended to be made of any such provision; and paragraphs (c) and (d)(ii) of subsection (2) of that section shall apply in relation to the sale of intoxicating liquor by or on behalf of a club as they apply in relation to its supply to members of the club.

- (3) Subject to subsection (4) of this section, a magistrates' court, on the issue or renewal of a registration certificate for any premises, may attach to the certificate such conditions restricting sales of intoxicating liquor on those premises as the court thinks reasonable (including conditions forbidding or restricting any alteration of the rules of the club so as to authorise sales not authorised at the time of the application to the court), and subsection (1) of this section shall not authorise a sale in breach of any such condition.
- (4) No condition shall be attached to a registration certificate under subsection (3) of this section so as to prevent the sale of intoxicating liquor to a person admitted to the premises as being a member of another club, if—
  - (a) the other club is registered in respect of premises in the locality which are temporarily closed; or
  - (b) both clubs exist for learned, educational or political objects of a similar nature; or
  - (c) each of the clubs is primarily a club for persons who are qualified by service or past service, or by any particular service or past service, in Her Majesty's forces and are members of an organisation established by Royal Charter and consisting wholly or mainly of such persons; or
  - (d) each of the clubs is a working men's club (that is to say, a club which is, as regards its purposes, qualified for registration as a working men's club under the Friendly Societies Act 1896 and is a registered society within the meaning of that Act or of the Industrial and Provident Societies Act 1893).
- (5) A registration certificate may, at the time of its renewal, or on the application of the club, or on complaint in writing made against the club by the chief officer of police or the local authority, be varied by imposing, varying or revoking any conditions authorised by subsection (3) of this section.
- (6) At the hearing of an application for the issue or renewal of a registration certificate, or of an application by a club under subsection (5) of this section, the chief officer of police or the local authority shall be entitled, on giving written notice of intention to do so, to make representations as to the conditions which ought to be attached to the certificate under this section.
- (7) Where the rules of a club registered in respect of any premises are altered so as to authorise at those premises sales of intoxicating liquor not authorised by the rules at the time of the application or last application by the club for the issue or renewal of a registration certificate for those premises, the alteration shall not be effective for the purposes of subsection (1) of this section until notice of it has been given in accordance with section 48 of this Act.

## **50 Appeal to quarter sessions**

- (1) A club may appeal to quarter sessions against any decision of a magistrates' court refusing to issue or renew a registration certificate, or cancelling a registration certificate, or against any decision of a magistrates' court as to the conditions of a registration certificate relating to sales of intoxicating liquor, or against any order of a magistrates' court under section 47 of this Act.
- (2) Where the decision appealed against relates to two or more premises, the appeal may be brought in respect of any of those premises without the others.

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- (3) Where the decision appealed against was given on an application to the magistrates' court by the club, no person shall be made a party to the appeal except a person who appeared before the magistrates' court to make an objection to or representations on the application, but any such person shall be a party to the appeal, whether or not his objection related to the same premises as the appeal.
- (4) Where a magistrates' court refuses an application for the renewal of a registration certificate, the court may, on such conditions as it thinks fit, order that the certificate (as in force at the time of the application) shall continue in force pending the determination of an appeal against the refusal, or pending the consideration of the question of bringing such an appeal.

## **51 Register of clubs**

- (1) The clerk to the justices for any petty sessions area shall keep a register of clubs holding registration certificates for premises in the area.
- (2) The register shall show for the premises in respect of which a club is registered the hours, if any, fixed as the permitted hours by or under the rules of the club (as notified to the clerk to the justices), and shall contain such other particulars, and shall be in such form, as may be prescribed by regulations of the Secretary of State.

Any regulations under this subsection shall be made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

- (3) The register shall at all reasonable times be open to inspection on payment of the appropriate fee (if any) by any person, and without payment by any officer of police, by any officer of Customs and Excise, or by any officer of the local authority who is authorised in writing to inspect it on their behalf.
- (4) Written notice, signed by the chairman or secretary of the club, shall be given to the clerk to the justices of any change in the particulars of the club which are contained or required to be contained in the register by virtue of regulations under this section; and if the notice required by this subsection is not given within forty-two days of the change, the chairman and secretary shall each be liable to a fine not exceeding fifty pounds.

## **52 Provisions as to different premises of same club**

- (1) A single registration certificate may relate to any number of premises of the same club, and on an application duly made a registration certificate may, at the time of renewal or otherwise, be varied as regards the premises to which it relates.
- (2) Where a variation of a registration certificate would result in the club being registered in respect of different, additional or enlarged premises, and is to be made otherwise than at the time of renewal, the provisions of this Act shall apply as they apply in the case of a renewal, except that the variation shall not extend the duration of the certificate.
- (3) Where a club seeks or holds a registration certificate for two or more premises not contiguous to one another, the court on an objection to the issue or renewal of the certificate or complaint for its cancellation may refuse to issue or renew it or may cancel it for some only of the premises, if the ground of objection or complaint relates



only to those premises or is only made out for those premises, and the court is of opinion that it is in the circumstances reasonable for the club to be or remain registered in respect of the other premises.

- (4) No order shall be made under section 47 of this Act in relation to any premises unless the ground of objection or complaint relates to and is made out for those premises or contiguous premises.

### **53 Penalty for false statements**

If an application by a club for the issue or renewal of a registration certificate or for the variation of a registration certificate, or a notice under section 51(4) of this Act, contains any statement known to the person signing it to be false in a material particular, or if a person recklessly signs any such application or notice containing a statement which is false in a material particular, the person signing the application or notice shall be liable to imprisonment for a term not exceeding three months, or to a fine not exceeding one hundred pounds, or to both.

### **54 Search warrants**

If a justice of the peace is satisfied by information on oath that there is reasonable ground for believing—

- (a) that there is ground for cancelling in whole or in part a registration certificate held by a club, and that evidence of it is to be obtained at the club premises or any of them ; or
- (b) that intoxicating liquor is sold or supplied by or on behalf of a club in club premises for which the club does not hold a registration certificate or a justices' licence, or is kept in any club premises for sale or supply in contravention of this Part of this Act;

he may issue a search warrant under his hand to a constable authorising him at any time or times within one month from the date of the warrant to enter the club premises, or any of them, by force if need be, and search them and seize any documents relating to the business of the club.