



# Licensing Act 1964

## 1964 CHAPTER 26

### PART XIV

#### SUPPLEMENTAL

#### **192 Jurisdiction of justices**

- (1) Any function vested by this Act in licensing justices or the justices acting for any petty sessions area shall be exercisable by a majority of the justices present at a meeting assembled for the purpose.
- (2) Without prejudice to section 3 of the Magistrates' Courts Act 1952, any river or water lying between, or forming the boundary between, two or more petty sessions areas shall for the purposes of this Act be deemed to be in each of those areas.

#### **193 Disqualification of justices**

- (1) No justice shall act for any purpose under this Act in any county, county borough or borough having a separate commission of the peace, or be capable of being appointed or being a member of any committee therein for any such purpose, who is, or is in partnership with, a brewer, distiller, maker of malt for sale or retailer of malt or of any intoxicating liquor, in that county or borough.
- (2) No justice who holds any share or stock in a company which is such a brewer, distiller, maker of malt or retailer as aforesaid in any county, county borough or borough having a separate commission of the peace shall be capable of being appointed or being a member of a licensing committee or compensation authority in that county or for that borough unless before his appointment as a member thereof he has disclosed to the justices appointing him the fact that he holds the share or stock; but where a member of any such committee or authority is disqualified for being a member thereof by acquiring any such share or stock he may be re-appointed if before his re-appointment he has disclosed to the justices re-appointing him the fact that he has acquired the share or stock.

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- (3) A person who is the beneficial owner of any such share or stock as aforesaid held by him (whether his beneficial ownership extends to the whole holding or to a part of it or an interest in it only) shall not be appointed or re-appointed a member of any such committee or authority as aforesaid unless the justices appointing or re-appointing him are satisfied that the extent to which the company in question carries on or is interested in the business of brewing, distilling, making of malt for sale or retailing of malt or of any intoxicating liquor is so small in comparison with its whole business that the fact that the said person is interested in the company affords no reasonable ground for suggesting that he is not a proper person to be a member of the committee or authority.
- (4) Subject to subsection (5) of this section, no justice shall act for any purpose under this Act in a case that concerns any premises in the profits of which he is interested, or of which he is wholly or partly the owner, lessee, or occupier, or for the owner, lessee, or occupier of which he is manager or agent; but a justice shall not be disqualified under this provision by reason of his having vested in him a legal interest only, and not a beneficial interest, in the premises concerned or the profits of them.
- (5) A justice having an interest in the profits of any premises shall not be thereby disqualified under subsection (4) of this section or otherwise from acting under this Act, if he would not fall to be treated as having such an interest but for the fact that he has a beneficial interest in shares of a company or other body having an interest in those profits, and if his beneficial interest in the shares of the company or body does not extend to shares of a total nominal value greater than twenty-five pounds, or to more than one-hundredth in nominal value of its issued share capital or of any class of its issued share capital.
- In this subsection "share" includes stock, and "share capital" shall be construed accordingly.
- (6) No act done by any justice disqualified by this section shall be invalid by reason only of that disqualification, and no act done by any justice who by virtue of this section has ceased to be a member of any licensing committee or compensation authority shall be invalid by reason only of the cessation of membership.
- (7) If any justice, knowing that the circumstances are such that under this Act he is disqualified for acting for any of the purposes of this Act, acts as a justice for that purpose he shall be liable to a penalty not exceeding one hundred pounds, to be recovered by action in the High Court; but a justice proceeded against for more than one contravention of this section committed before the institution of the proceedings shall not be liable in respect of all such contraventions to an aggregate penalty exceeding one hundred pounds.
- (8) No objection shall be allowed to any justices' licence on the ground that it was granted by justices not qualified to grant it.

#### **194 Prosecution of offences and disposal of forfeited goods**

- (1) Offences under this Act shall be punishable on summary conviction.
- (2) For the purposes of any provision of this Act imposing a penalty or forfeiture on a second or subsequent conviction, any conviction that took place more than five years previously shall be disregarded.

- (3) Liquor or vessels forfeited under this Act shall be sold or otherwise disposed of as the court imposing the forfeiture may direct; and the proceeds shall be applied as if they were a fine.

**195 Application of s. 194 to offences under Licensing Act 1872 and Licensing Act 1902**

Subsections (1) and (2) of the preceding section shall apply to offences under section 12 of the Licensing Act 1872, and the said subsection (2) also to offences under section 6 of the Licensing Act 1902.

**196 Proof of sale or consumption of intoxicating liquor**

- (1) Evidence that a transaction in the nature of a sale of intoxicating liquor took place shall, in any proceedings relating to an offence under this Act, be evidence of the sale of the liquor without proof that money passed.
- (2) Evidence that consumption of intoxicating liquor was about to take place shall in any such proceedings be evidence of the consumption of intoxicating liquor without proof of actual consumption.
- (3) Evidence that any person, other than the occupier of licensed premises or a servant employed in licensed premises, consumed or intended to consume intoxicating liquor in the premises shall be evidence that the liquor was sold by or on behalf of the holder of the justices' licence to that person.

**197 Service of notices, etc.**

Subject to any express provision in this Act or in rules under section 140 or section 147 of this Act, any notice or document, other than a summons, required or authorised to be given under this Act may be served by post.

**198 Orders, rules and regulations**

- (1) Any power of the Treasury or of a Minister of the Crown under this Act to make orders, rules or regulations, except the power of the Secretary of State to make orders under Part VI of this Act, shall be exercisable by statutory instrument.
- (2) Any power to make orders conferred on the Secretary of State by any provision of this Act other than section 118, section 120 or Schedule 11 includes power to vary or revoke an order made in the exercise of that power.

**199 Exemptions and savings**

Nothing in this Act shall—

- (a) affect any privilege enjoyed by the University of Cambridge or by any person to whom any such privilege has been transferred in pursuance of any Act;
- (b) affect the exemption from the requirement to take out a justices' licence enjoyed by the Company of the master, warden and commonalty of Vintners of the City of London ;

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- (c) affect the exemption from the requirement to take out a justices' licence conferred on the proprietors of theatres by section 150(2) of the Customs and Excise Act 1952;
- (d) affect the exemption from the requirement to take out a justices' licence conferred in respect of passenger aircraft, passenger vessels and railway passenger vehicles by section 155 of that Act, or apply to the sale of intoxicating liquor in such aircraft, vessels or vehicles;
- (e) prohibit the sale of medicated or methylated spirits ;
- (f) prohibit the sale by registered medical practitioners or registered pharmacists of spirits made up in medicine;
- (g) prohibit the sale of intoxicating liquor by wholesale ;
- (h) affect any penalties recoverable by or on behalf of the Commissioners, or, except where the context requires it, any laws relating to excise; or
- (i) apply to the sale or consumption of intoxicating liquor in canteens.

## **200 Meaning of "licensed premises" in this Act and s. 12 of Licensing Act 1872**

- (1) Any reference in this Act to licensed premises shall, unless the context otherwise requires, be construed as a reference to premises for which a justices' licence is in force and as including a reference to any premises or place, other than a licensed canteen, where intoxicating liquor is sold by retail under a licence and, except in section 103, any premises where the Secretary of State carries on a business of selling liquor by retail in the exercise of powers conferred on him by Part V of this Act.
- (2) In section 12 of the Licensing Act 1872 the expression " licensed premises " shall include any place where intoxicating liquor is sold under an occasional licence.

## **201 Interpretation of other expressions**

- (1) In this Act, unless the context otherwise requires—
  - " bar " includes any place exclusively or mainly used for the sale and consumption of intoxicating liquor;
  - " canteen ", except in Part X of this Act and in the expressions " canteen licence" and " licensed canteen ", means a canteen in which the sale or supply of intoxicating liquor is carried on under the authority of the Secretary of State ;
  - " canteen licence " has the meaning assigned to it by section 148(1) of this Act;
  - " club premises " has the meaning assigned to it by section 39(6) of this Act;
  - " the Commissioners " means the Commissioners of Customs and Excise;
  - " compensation fund " has the meaning assigned to it by section 17(5) of this Act;
  - " development corporation " has the same meaning as in the New Towns Act 1946 ;
  - " early-closing licence " has the meaning assigned to it by section 65(2) of this Act;
  - " enactment " includes an enactment contained in any order, regulation or other instrument having effect by virtue of an Act;
  - " the general licensing hours " has the meaning assigned to it by section 60(5) of this Act;

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" general order of exemption " has the meaning assigned to it by section 74(1) of this Act;

" grant " in relation to a justices' licence includes a grant by way of renewal, transfer or removal and " application " shall be construed accordingly ;

" intoxicating liquor " means spirits, wine, beer, porter, cider, perry, and British wine and any fermented, distilled or spirituous liquor that cannot for the time being be sold without an excise licence; but does not include beer or porter for the sale of which an excise licence is not required ;

" licensed canteen " means a canteen within the meaning of Part X of this Act in respect of which a canteen licence is in force ;

" mess " means an authorised mess of members of Her Majesty's naval, military or air forces;

" the metropolis " means the administrative county of London together with any area outside that county but within the four-mile radius from Charing Cross;

" the Minister " means the Minister of Housing and Local Government;

" occasional licence " means an excise licence granted under section 151 of the Customs and Excise Act 1952;

" old on-licence " has the meaning assigned to it by section 12(1) of this Act;

" ordinary removal " has the meaning assigned to it by section 5(6) of this Act;

" Part IV licence " has the meaning assigned to it by section 93 of this Act;

" planning removal " has the meaning assigned to it by section 121(2) of this Act;

" registered ", in relation to a club, has the meaning assigned to it by section 40(1) of this Act;

" registered owner " has the meaning assigned to it by section 32(3) of this Act;

" residential licence ", " residential and restaurant licence " and " restaurant licence " have the meanings assigned to them by section 94 of this Act;

" sale by retail ", in relation to any intoxicating liquor, has the meaning assigned to it by section 148(4) of the Customs and Excise Act 1952 ;

" seasonal licence " has the meaning assigned to it by section 64(2) of this Act;

" secretary ", in relation to a club, includes any officer of the club or other person performing the duties of a secretary and, in relation to a proprietary club where there is no secretary, the proprietor of the club;

" six-day licence " has the meaning assigned to it by section 65(2) of this Act;

" special hours certificate " means a certificate granted under section 77 or section 78 of this Act;

" special order of exemption " has the meaning assigned to it by section 74(4) of this Act;

" special removal " has the meaning assigned to it by section 15(2) of this Act;

" statutory regulations for music and dancing " means—

- (i) section 51 of the Public Health Acts Amendment Act 1890; or
- (ii) the Home Counties (Music and Dancing) Licensing Act 1926 ; or

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- (iii) Schedule 12 to the London Government Act 1963 ; or
  - (iv) any local Act or part of a local Act regulating by means of licences the provision of music and dancing in places of public resort;
    - " table meal " means a meal eaten by a person seated at a table, or at a counter or other structure which serves the purpose of a table and is not used for the service of refreshments for consumption by persons not seated at a table or structure serving the purpose of a table;
    - " temporary premises removal " has the meaning assigned to it by section 126(2) of this Act.
- (2) For the purposes of this Act a person shall be treated as residing in any premises, notwithstanding that he occupies sleeping accommodation in a separate building, if he is provided with that accommodation in the course of a business of providing board and lodging for reward at those premises and the building is habitually used for the purpose by way of annexe or overflow in connection with those premises and is occupied and managed with those premises.
- (3) Any reference in this Act to the administrative county of London shall, on and after 1st April 1965, be construed as a reference to the area which immediately before that date was comprised in that county.
- (4) Any provision in this Act requiring or authorising notice to be given to the chief officer of police shall be construed as requiring or authorising the notice to be given—
- (a) if the premises to which the notice relates (that is to say, in the case of an application for a licence, the premises to be licensed) are in the City of London, to the Commissioner of Police for the City ;
  - (b) if the premises are in the metropolitan police district, to the Commissioner of Police of the Metropolis;
  - (c) if the premises are in any other police area to the chief constable for that area.
- (5) Except where the context otherwise requires, references in this Act to any enactment are references to that enactment as amended, and include references thereto as extended or applied, by any other enactment, including this Act.

## **202 Application to Isles of Scilly**

- (1) The Secretary of State may by order made in relation to the Isles of Scilly provide—
- (a) for substituting, for the provisions of this Act other than Part X prohibiting the sale or supply of intoxicating liquor except as authorised by or under those provisions, a prohibition of the sale or supply of intoxicating liquor except as authorised by annual or occasional permits granted by the joint police committee for the Isles of Scilly and in accordance with such conditions as the permits may specify ;
  - (b) for the exercise by that committee of the functions of licensing justices under Part III of this Act and under section 35 of the Betting, Gaming and Lotteries Act 1963 and of the functions of justices of the peace under section 74 of this Act.
- (2) An order under this section may contain such supplemental and consequential provisions as appear to the Secretary of State expedient for the purposes of the order, including supplemental or consequential provisions excluding, modifying, or adapting any enactment relating to the sale or supply of intoxicating liquor in its application to the Isles of Scilly.

**203 Amendments, transitional provisions and repeals**

- (1) The enactments mentioned in Schedule 13 to this Act shall have effect subject to the amendments specified therein.
- (2) This Act shall have effect subject to the transitional provisions contained in Schedule 14 to this Act.
- (3) The enactments specified in Schedule 15 to this Act are hereby repealed to the extent specified in column 3 of that Schedule.

**204 Short title, commencement and extent**

- (1) This Act may be cited as the Licensing Act 1964.
- (2) This Act shall come into force on 1st January 1965.
- (3) This Act does not extend to Scotland or Northern Ireland.