



# Licensing Act 1988

## 1988 CHAPTER 17

An Act to amend the Licensing Act 1964.

[19th May 1988]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### *Permitted hours*

#### **1 Modification of permitted hours.**

- (1) In section 60(1)(a) of the principal Act (permitted hours in licensed premises on weekdays)—
  - (a) for the words “half past ten” there shall be substituted the word “eleven”; and
  - (b) the words “with a break of two and a half hours beginning at three in the afternoon” shall be omitted.
- (2) In section 60(1)(b) of the principal Act (permitted hours in licensed premises on Sundays etc.), for the words “five hours beginning at two” there shall be substituted the words “four hours beginning at three”.
- (3) In subsection (4) of that section (power of licensing justices to modify the permitted hours for their district within specified limits), for the words from “within” to the end there shall be substituted the words “so that the permitted hours begin at a time earlier than eleven, but not earlier than ten, in the morning”.
- (4) In subsection (6) of that section (premises licensed for the sale of intoxicating liquor for consumption off the premises), the words “half past” shall be omitted.
- (5) In section 62 of that Act (permitted hours in clubs), the following subsection shall be substituted for subsection (1)—
  - “(1) The permitted hours in premises in respect of which a club is registered shall be—

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- (a) on weekdays, other than Christmas Day or Good Friday, the general licensing hours; and
  - (b) on Sundays, Christmas Day and Good Friday, the hours fixed by or under the rules of the club in accordance with the following conditions—
    - (i) the hours fixed shall not be longer than five and a half hours and shall not begin earlier than twelve noon nor end later than half past ten in the evening;
    - (ii) there shall be a break in the afternoon of not less than two hours which shall include the hours from three to five; and
    - (iii) there shall not be more than three and a half hours after five.”
- (6) In section 76(2) of that Act (permitted hours on weekdays where special hours certificate in force) for the words from “be the periods” to “evening and” there shall be substituted the words “extend until”.
- (7) Schedule 1 to this Act has effect for the purpose of making amendments of the principal Act consequential on this section.

## **2 Extension of period for consumption of intoxicating liquor outside permitted hours.**

In section 63(1) of the principal Act, for the words “ten minutes” there shall be substituted the words “ twenty minutes ”.

## **3 Restriction orders.**

- (1) After section 67 of the principal Act there shall be inserted the following—

*“ Restriction orders with respect to licensed premises and clubs*

### **67A Restriction orders.**

- (1) An order under this section may be made with respect to—
  - (a) any licensed premises or part of licensed premises, other than premises licensed for the sale of intoxicating liquor for consumption off the premises only and any premises for which an occasional licence is in force; and
  - (b) any premises in respect of which a club is registered.
- (2) An order under this section is referred to in this section and sections 67B, 67C and 67D of this Act as a “restriction order” and in those sections (and Schedule 8A to this Act) “theatre” means any premises in respect of which a notice under section 199 (c) of this Act is for the time being in force.
- (3) Where a restriction order is in force with respect to any premises or part of any premises, the permitted hours in those premises or that part shall not include any time specified in the order.
- (4) A restriction order may specify any time between half past two and half past five in the afternoon and may apply in relation to particular days of the

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week specified in the order and in relation to particular periods of the year so specified.

- (5) The power to make a restriction order shall be exercisable—
- (a) with respect to licensed premises, by licensing justices, and
  - (b) with respect to premises in respect of which a club is registered, by a magistrates' court,
- on application being made to them under this section.
- (6) An application for a restriction order may be made by—
- (a) the chief officer of police;
  - (b) any person living in the neighbourhood, or any body representing persons who do;
  - (c) any person carrying on a business in the neighbourhood or managing or otherwise in charge of it in the neighbourhood; or
  - (d) the head teacher or other person in charge of any educational establishment in the neighbourhood.
- (7) A restriction order may be made—
- (a) on the ground that it is desirable to avoid or reduce any disturbance of or annoyance to—
    - (i) persons living or working in the neighbourhood,
    - (ii) customers or clients of any business in the neighbourhood, or
    - (iii) persons attending, or in charge of persons attending, any educational establishment in the neighbourhood,due to the use of the premises or part of the premises; or
  - (b) on the ground that it is desirable to avoid or reduce the occurrence of disorderly conduct in the premises or part of the premises or the occurrence in the vicinity of the premises of disorderly conduct on the part of persons resorting to the premises or part of the premises.
- (8) The terms of a restriction order shall be such as the licensing justices or, as the case may be, the magistrates' court think fit.
- (9) A restriction order shall have effect as from the date specified in it and (unless revoked or varied or the licence or registration ceases to be in force) for the period specified in it, which shall not exceed twelve months.
- (10) Schedule 8A to this Act shall have effect as respects the procedure for the making of restriction orders.

### **67B Restriction orders: appeals.**

- (1) Any holder of a justices' licence, any club or any proprietor of a theatre aggrieved by a decision of licensing justices or a magistrates' court—
- (a) granting a restriction order, or
  - (b) as to the terms of a restriction order,
- may appeal to the Crown Court against the decision.
- (2) On an appeal under this section against a restriction order the applicant for the order shall be respondent in addition to the licensing justices or justices, as the case may be.

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- (3) Where an appeal is brought under this section against a restriction order, the operation of the order shall be suspended until the disposal of the appeal, unless the licensing justices or magistrates' court, as the case may be, or the Crown Court otherwise order.
- (4) The judgment of the Crown Court on any appeal under this section shall be final.

#### **67C Revocation or variation of restriction orders.**

- (1) Subject to subsection (2) below, where a restriction order is in force in respect of any premises or part of any premises the holder of the justices' licence, the club or the proprietor of the theatre, as the case may be, may apply to the licensing justices or magistrates' court who made the order to have it revoked or its terms varied.
- (2) No application for the revocation or variation of a restriction order shall be made within the period of six months beginning with the date on which the order came into force nor where a previous application has been made under this section with respect to the order.
- (3) On an application under this section in relation to a restriction order, the licensing justices or the magistrates' court may, if they think fit—
  - (a) where revocation of the order is sought, either revoke it or make such an order varying its terms as they think fit; and
  - (b) where variation of the terms of the order is sought, make such an order varying its terms as they think fit.
- (4) Schedule 8A to this Act shall have effect as respects the procedure for the revocation or variation of restriction orders.

#### **67D Duty to post notice of restriction order on premises.**

- (1) Where a restriction order is in force with respect to any licensed premises, the holder of the licence or the theatre proprietor, as the case may be, shall keep posted in some conspicuous place there a notice stating the effect of the order on the permitted hours.
  - (2) Where a restriction order has effect with respect to a part only of licensed premises, subsection (1) above requires the notice to be posted in that part of the premises.
  - (3) A person contravening this section shall be liable to a fine not exceeding level 1 on the standard scale.”
- (2) After section 156 of the principal Act there shall be inserted the following section—

#### **“156A Restriction orders.**

Sections 67A, 67B and 67C of this Act shall apply in relation to a licensed canteen as they apply in relation to premises for which a justices' on-licence is in force, with the substitution for any reference to the holder of the justices' licence of a reference to the holder of the canteen licence.”

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(3) In section 201(1) of that Act (interpretation), there shall be inserted at the appropriate place in alphabetical order—

““restriction order” has the meaning assigned to it by section 67A(2) of this Act;”.

(4) The Schedule set out in Schedule 2 to this Act shall be inserted after Schedule 8 to the principal Act.

#### **4 Abolition of renewals of extended hours orders.**

(1) In section 71 of the principal Act (extended hours orders for licensed premises)—

(a) in subsection (2), for the words from “shall” to the end there shall be substituted the words—

“(a) shall lapse when the licence ceases to be in force otherwise than on its being superseded on renewal or transfer; and

(b) may be varied by a further such order.”; and

(b) in subsection (3), the words “to be made otherwise than by way of renewal of a previous order (without variation)” shall be omitted.

(2) In section 72 of that Act (extended hours orders for premises in respect of which a club is registered), in subsection (2), for the words from “or on the date” to “in the order” there shall be substituted the words “ without being renewed ” and the words “renewed or” shall be omitted.

#### **5 Discretion with respect to grant, and limitation, of special hours certificates.**

(1) In sections 77 and 78 of the principal Act (duty, subject to specified conditions, to grant special hours certificates for licensed premises and clubs respectively)—

(a) for the word “shall” there shall be substituted the word “ may ”; and

(b) after the word “grant” there shall be inserted the words “ , with or without limitations, ”.

(2) The following section shall be inserted after section 78 of that Act—

##### **“78A Limitations on special hours certificates.**

(1) On an application for a special hours certificate the licensing justices or, as the case may be, the magistrates’ court may grant a certificate under section 77 or 78 of this Act limited in any of the following respects.

(2) The limitations referred to are limitations—

(a) to particular times of the day;

(b) to particular days of the week;

(c) to particular periods of the year.

(3) Different limitations may be imposed by virtue of subsection (2)(a) above for different days.

(4) Where a special hours certificate is subject to limitations under this section the licensing justices or, as the case may be, the magistrates’ court may, on

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the application of the licensee or the club, vary any limitation to which it is so subject.”

- (3) In section 80 of that Act (certificates limited to particular days or periods)—
- (a) subsection (2) shall cease to have effect; and
  - (b) in subsection (3), for the words “subsection (2) of this section” there shall be substituted the words “ section 78A of this Act ”.
- (4) For section 81A of that Act (special hours certificates: restriction of hours) there shall be substituted the following section—

**“81A Special hours certificates: further powers to impose limitations as to hours.**

- (1) Limitations to particular times of the day may also be attached to special hours certificates by licensing justices or, as the case may be, a magistrates’ court as provided by subsections (2) and (3) below; and different limitations may be imposed under this section for different days.
  - (2) On an application for revocation of such a certificate under section 81(2) of this Act, the justices or court may, instead of revoking the certificate, attach any limitation authorised by subsection (1) above or vary any such limitation to which the certificate is subject under section 78A of this Act.
  - (3) At any time while such a certificate is in force (other than for any premises situated as mentioned in section 76(3) of this Act) the justices or court may, on the application of the chief officer of police, attach any limitation authorised by subsection (1) above or vary any such limitation to which the certificate is subject under section 78A of this Act.
  - (4) Where a special hours certificate is subject to limitations under subsection (2) or (3) above, the licensing justices or, as the case may be, the magistrates’ court may, on the application of the licensee or the club, vary any limitation to which it is so subject.”
- (5) In section 81B(1) of that Act (special hours certificates: appeals) after the words “magistrates’ court” there shall be inserted the following—
- “(a) not to grant a special hours certificate under section 77 or 78 of this Act;”

and paragraph (a) shall become paragraph (aa) of that subsection.

## **6 Exemption orders and special hours certificates: fees**

- (1) In section 74(6) of the principal Act (discharge of power to make exemption orders in City of London and metropolitan police district), after paragraph (b), there shall be added the following—
- “and the Commissioner of Police for the City of London and the Commissioner of Police for the Metropolis shall have the same power as justices’ clerks to charge fees in respect of matters arising under this section.”
- (2) In section 79 of the principal Act (certificates of suitability of club premises) after subsection (6), there shall be added the following subsection—

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“(7) On any application for the grant or renewal of a certificate, or the waiver or modification of a condition or restriction in a certificate, under this section, the applicant shall pay a reasonable fee determined by the authority.”

## **7 Transfer of powers with respect to general orders of exemption in London.**

In section 74(6) of the principal Act (discharge of power to make exemption orders in City of London and metropolitan police district)—

- (a) after the word “district”, in the first place where it occurs, there shall be inserted the words “ subsection (4) of ”; and
- (b) for the word “references”, there shall be substituted, in the first place where it occurs, the words “ the reference ” and in the second and third places where it occurs, the words “ a reference ”.

## **8 Power to vary permitted hours in on-licensed vineyard premises.**

The following section shall be inserted after section 87 of the principal Act—

### **“87A Power to vary permitted hours in on-licensed vineyard premises.**

- (1) Licensing justices, on an application by the holder of a justices’ on-licence for any premises which form part of a vineyard, may make an order varying the permitted hours in those premises if, after hearing evidence, they are satisfied—
  - (a) that the sale of intoxicating liquor on the premises is ancillary to the carrying on of a business of producing wine from grapes grown in the vineyard; and
  - (b) that it is desirable to make an order under this section for the accommodation of persons visiting the vineyard.
- (2) An order under this section may vary the permitted hours either generally or for such days or part or parts of the year as the licensing justices think fit.
- (3) In making an order under this section with respect to permitted hours on weekdays, other than Christmas Day or Good Friday, licensing justices may not so vary the hours as to make them exceed in total more than twelve hours on any day.
- (4) In making an order under this section with respect to permitted hours on Sundays, Christmas Day or Good Friday, licensing justices may not so vary the hours as to make them—
  - (a) begin before twelve noon; or
  - (b) exceed in total more than five and a half hours on any day.
- (5) A person intending to apply for an order under this section shall give notice in writing of his intention to the clerk to the licensing justices and the chief officer of police at least 21 days before the commencement of the licensing sessions at which the application is to be made.
- (6) Licensing justices shall not hear an application for an order under this section unless notice under subsection (5) of this section has been duly given.
- (7) Licensing justices may revoke or vary an order under this section; but, unless it is proved that the holder of the justices’ on-licence had notice of the revocation

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or variation, a person shall not be guilty of an offence under section 59 of this Act in doing anything that would have been lawful had the revocation or variation not been made.”

*Licences: miscellaneous provisions*

**9 Provisional grant of new licence or removal.**

In section 6 of the principal Act (provisional grant of a new justices’ licence or removal in the case of premises about to be or in course of construction etc.) after subsection (4) there shall be inserted the following subsections—

“(4A) The holder of a provisional licence may also apply to have a provisional grant declared final before the premises have been completed if it is likely that they will be completed as mentioned in paragraph (a) of subsection (4) of this section before the date appointed for the next licensing sessions; and the licensing justices, if they are satisfied that the premises are likely to be so completed and are further satisfied of the matters mentioned in paragraph (b) of that subsection, may direct that the declaration may be made before the next licensing sessions by a single licensing justice.

(4B) In a case where a direction has been given under subsection (4A) of this section, a single licensing justice, after such notice has been given as he may require, shall declare the provisional grant final if he is satisfied that the premises have been completed as mentioned in paragraph (a) of subsection (4) of this section.

(4C) Until a provisional grant has been declared final under subsection (4) or (4B) of this section it shall not be valid.”

**10 Disqualified premises— garages.**

(1) After section 9(4) of the principal Act there shall be inserted the following subsections—

“(4A) Premises shall be disqualified for receiving a justices’ licence if they are primarily used as a garage or form part of premises which are primarily so used.

(4B) In subsection (4A) of this section, the reference to use as a garage is a reference to use for any one or more of the following purposes, namely, the retailing of petrol or derv or the sale or maintenance of motor vehicles.”

(2) Where, apart from this subsection, a justices’ licence (within the meaning of the principal Act) would become void on the coming into force of subsection (1) above, the premises to which the licence is attached shall be treated as premises which are not disqualified for receiving such a licence by section 9(4A) of that Act for so long as they continue to be premises for which such a licence is in force.

**11 Extension of duration of justices’ licences and canteen licences.**

(1) In section 26 of the principal Act (duration of justices’ licences)—

(a) in subsection (1), for paragraphs (a) and (b) there shall be substituted—



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- “(a) if granted before 5th January 1989, shall be granted to have effect from the time of the grant until 4th April 1989;
- (b) if granted after 4th January and before 5th April 1989, shall be granted to have effect from the time of the grant until 4th April 1992; and
- (c) if granted after 4th April 1989, shall be granted to have effect from the time of the grant until the expiry of the current licensing period or, if granted in the last three months of that period, until the end of the next licensing period;

but shall be superseded on the coming into force of a licence granted by way of renewal, transfer or removal of it.”; and

- (b) for subsection (5), there shall be substituted the following—

“(5) In this Act “licensing period” means a period of three years beginning with 5th April 1989 or any triennial of that date.”

- (2) In section 151 of that Act (duration and renewal of canteen licences)—

- (a) in subsection (1), for the words “expire on 4th April next after the date on which it comes into force” there shall be substituted the words—

“(a) if it comes into force before 5th April 1989, expire on 4th April 1989; and

(b) if it comes into force after 4th April 1989, expire at the end of the licensing period which is current when it comes into force.”; and

- (b) in subsection (2), for the words “twelve months” there shall be substituted the words “ three years ”.

- (3) In sections 133(3) and 142(3) of that Act (duration of suspended licences when restored to full force) for the words from “5th April” to “time” there shall be substituted the words “ the expiry of the licensing period current ”.

- (4) In section 201(1) of that Act (interpretation), there shall be inserted at the appropriate place in alphabetical order—

““licensing period” has the meaning assigned to it by section 26(5) of this Act;”.

## **12 Revocation of justices’ licences and canteen licences.**

- (1) The following section shall be inserted after section 20 of the principal Act—

*“ Revocation of justices’ licences*

### **20A Revocation.**

- (1) Licensing justices may revoke a justices’ licence at any licensing sessions, other than licensing sessions at which an application for renewal of the licence falls to be considered, either of their own motion or on the application of any person.

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- (2) The power to revoke a justices' licence under this section is exercisable on any ground on which licensing justices might refuse to renew a justices' licence or a justices' licence of that description.
  - (3) Licensing justices may only exercise the power conferred by this section if, at least twenty-one days before the commencement of the licensing sessions in question, notice in writing of the proposal to exercise the power or, as the case may be, to make the application has been given to the holder of the licence and, in the case of a proposed application, to the clerk to the licensing justices, specifying in general terms the grounds on which it is proposed the licence should be revoked.
  - (4) Evidence given for the purposes of proceedings under this section shall be given on oath.
  - (5) A decision under this section to revoke a justices' licence shall not have effect—
    - (a) until the expiry of the time for appealing against the decision; or
    - (b) if the decision is appealed against, until the appeal is disposed of.”
- (2) The following section shall be inserted after section 153 of that Act—

**“153A Revocation of canteen licences.**

- (1) Licensing justices may revoke a canteen licence at any licensing sessions, other than licensing sessions at which an application for renewal of the licence falls to be considered, either of their own motion or on the application of any person.
- (2) The power to revoke a canteen licence under this section is exercisable on any ground on which licensing justices might refuse to renew a canteen licence.
- (3) Licensing justices may only exercise the power conferred by this section if, at least twenty-one days before the commencement of the licensing sessions in question, notice in writing of the proposal to exercise the power or, as the case may be, to make the application has been given to the holder of the licence and, in the case of a proposed application, to the clerk to the licensing justices, specifying in general terms the grounds on which it is proposed the licence should be revoked.
- (4) Evidence given for the purposes of proceedings under this section shall be given on oath.
- (5) A decision under this section to revoke a canteen licence shall not have effect—
  - (a) until the expiry of the time for appealing against the decision; or
  - (b) if the decision is appealed against, until the appeal is disposed of.”

**13 Power of clerk to licensing justices to grant unopposed renewals of justices' licences and canteen licences.**

The following section shall be inserted after section 193 of the principal Act—

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**“193A Power of clerk to licensing justices to grant unopposed renewals of justices’ licences and canteen licences.**

- (1) This section has effect in relation to applications for the renewal of justices’ licences and canteen licences made to the general annual licensing sessions immediately preceding the expiry of a licensing period.
- (2) The clerk to licensing justices may exercise on behalf of the justices their powers with respect to an application for the renewal of a justices’ licence or canteen licence if—
  - (a) the application is not opposed; or
  - (b) where under this Act the application may only be refused on specified grounds, it is not opposed on a ground on which renewal may be refused.
- (3) An application may not be dealt with under this section if—
  - (a) the justices so direct;
  - (b) it is made in conjunction with any other application or request with respect to the licence sought to be renewed; or
  - (c) in the case of an application for the renewal of a justices’ licence, there is a relevant entry in the register of justices’ licences maintained under this Act which relates to the applicant or the premises for which the licence is sought.
- (4) An entry in the register of justices’ licences is relevant for the purposes of this section if it is an entry made in pursuance of section 31 of this Act or section 163(1)(b) or 168(7)(a) of the Representation of the People Act 1983 (reports or convictions of bribery or treating to be entered in the register).”

*Licensing justices: constitution and procedure and costs*

**14 Modifications of constitution and procedure of licensing justices**

- (1) In section 2(3)(b) of the principal Act (number of transfer sessions to be held in any year), the words “nor more than eight” shall be omitted.
- (2) The following section shall be inserted after section 192 of that Act—

**“192A Power of justices at licensing sessions to act in divisions.**

- (1) If a majority of the licensing justices present at a licensing sessions so resolve, they may for the purposes of that sessions constitute themselves into two or more divisions.
- (2) A division constituted in accordance with this section may exercise all the powers exercisable by licensing justices under this Act and those powers shall be exercisable by a majority of the members present at a meeting of the division assembled for the purpose.
- (3) The quorum of a division of justices constituted under this section shall be three.”but this amendment is not to invalidate any proceedings at licensing

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sessions before the commencement of this subsection at which the licensing justices sat in divisions.

- (3) In Schedule 1 to that Act (licensing committees)—
- (a) in paragraph 2 (number of justices constituting committee), for the word “fifteen” there shall be substituted the words “twenty or such larger number as is for the time being authorised under paragraph 2A below.”; and
  - (b) after that paragraph there shall be inserted the following paragraph—

“2A  
The Secretary of State may direct that such number greater than twenty as is specified in the direction shall be the maximum number of members of licensing committees and a direction under this paragraph may apply to the committees for licensing districts specified in the direction and, where it does so apply, may specify different numbers for the committees for different districts.”

## 15 Power of licensing justices to award costs.

After the section 193A of the principal Act inserted by section 13 above there shall be inserted the following section—

### “193B Power of licensing justices to award costs.

- (1) On the hearing of any application under this Act relating to licensed premises or a seamen’s canteen, the licensing justices may make such order as they think just and reasonable for the payment of costs to the applicant by any person opposing the application or by the applicant to any such person.
- (2) For the purposes of enforcement an order for costs made under subsection (1) above shall be treated as an order for the payment of a sum enforceable as a civil debt.”

### *Protection of persons under eighteen*

## 16 Sale of intoxicating liquor on licensed premises to persons under 18.

- (1) Section 169 of the principal Act (offences on licensed premises in connection with the supply of intoxicating liquor to, or its consumption by, persons under eighteen) shall have effect with the following amendments.
- (2) In subsection (1) (which penalises the sale of intoxicating liquor by a licensee or his servant to a person known to be under eighteen), the word “knowingly”, in the first place where it occurs, shall be omitted.
- (3) After subsection (4) there shall be inserted the following subsections—
  - “(4A) Where a person is charged under subsection (1) of this section with the offence of selling intoxicating liquor to a person under eighteen and he is charged by reason of his own act, it shall be a defence for him to prove—
    - (a) that he exercised all due diligence to avoid the commission of such an offence; or
    - (b) that he had no reason to suspect that the person was under eighteen.

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(4B) Where the person charged with an offence under subsection (1) of this section is the licence holder and he is charged by reason of the act or default of some other person, it shall be a defence for him to prove that he exercised all due diligence to avoid the commission of an offence under that subsection.”

(4) For subsections (8) and (9), there shall be substituted the following subsection—

“(8) A person guilty of an offence under this section shall be liable to a fine not exceeding level 3 on the standard scale; and on a person’s second or subsequent conviction of such an offence the court may, if the offence was committed by him as the holder of a justices’ licence, order that he shall forfeit the licence.”

## **17 Sales to or by persons under 18 of intoxicating liquor on wholesale premises.**

The following section shall be inserted after section 181 of the principal Act—

### **“181A Sales to or by persons under 18 of intoxicating liquor on wholesale premises.**

- (1) In any premises from which he deals wholesale the wholesaler or his servant shall not sell intoxicating liquor to a person under eighteen.
- (2) In any premises from which he deals wholesale the wholesaler shall not allow a person under eighteen to make any sale of intoxicating liquor unless the sale has been specifically approved by the wholesaler or by a person of or over the age of eighteen acting on his behalf.
- (3) A person under eighteen shall not in premises from which intoxicating liquor is dealt in wholesale buy or attempt to buy such liquor.
- (4) In proceedings for an offence under subsection 91) of this section—
  - (a) where the person charged is charged by reason of his own act, it shall be a defence for him to prove—
    - (i) that he exercised all due diligence to avoid the commission of an offence under that subsection; or
    - (ii) that he had no reason to suspect that the other person was under eighteen; and
  - (b) where the person charged is charged by reason of the act of some other person, it shall be a defence for him to prove that he exercised all due diligence to avoid the commission of an offence under that subsection.
- (5) A person guilty of an offence under subsection (1) or (3) of this section shall be liable to a fine not exceeding level 3 on the standard scale.
- (6) A person guilty of an offence under subsection (2) of this section shall be liable to a fine not exceeding level 1 on the standard scale.
- (7) In this section “wholesaler” and “wholesale” have the same meaning as in section 4 of the Alcoholic Liquor Duties Act 1979.”

## **18 Prohibition of unsupervised off-sales by persons under 18.**

The following section shall be inserted after section 171 of the principal Act—

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*Status: Point in time view as at 01/02/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Licensing Act 1988 (repealed). (See end of Document for details)*

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**“171A Prohibition of unsupervised off-sales by persons under 18.**

- (1) In any premises which are licensed for the sale of intoxicating liquor for consumption off the premises only or any off-sales department of on-licensed premises, the holder of the licence shall not allow a person under eighteen to make any sale of such liquor unless the sale has been specifically approved by the holder of the licence or by a person of or over the age of eighteen acting on his behalf.
- (2) The reference in subsection (1) of this section to an off-sales department of on-licensed premises is a reference to any part of premises for which a justices’ on-licence has been granted which is set aside for use only for the sale of intoxicating liquor for consumption off the premises.
- (3) A person guilty of an offence under this section shall be liable to a fine not exceeding level 1 on the standard scale.”

*Supplementary*

**19 Amendments and repeals.**

- (1) Schedule 3 to this Act has effect for the purpose of making minor amendments of the principal Act.
- (2) The enactments specified in Schedule 4 to this Act are repealed to the extent specified in the third column of that Schedule.

**20 Short title, interpretation, commencement and extent.**

- (1) This Act may be cited as the Licensing Act 1988.
- (2) In this Act, “the principal Act” means the <sup>M1</sup>Licensing Act 1964.
- (3) This Act shall come into force on such day or days as the Secretary of State may appoint by order made by statutory instrument, and different days may be appointed for different provisions or different purposes of the same provision.
- (4) This Act extends to England and Wales only.

**Modifications etc. (not altering text)**

- C1** Power of appointment conferred by s. 20(3) fully exercised: S.I.s 1988/1187, 1333 (certain provisions brought into force 1.8.1988 and the remaining provisions 22.8.1988 and 1.3.1989)

**Marginal Citations**

- M1** 1964 c. 26.

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*Status: Point in time view as at 01/02/1991.*

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## SCHEDULES

### SCHEDULE 1

Section 1.

#### AMENDMENTS OF THE PRINCIPAL ACT CONSEQUENTIAL ON SECTION 1

- 1 In section 51(2) (register of clubs to show hours fixed under the rules of the club as the permitted hours), after the word “hours”, in the first place where it occurs, there shall be inserted the words “on Sundays, Christmas Day and Good Friday”.
- 2 In section 60(5) (definition of “general licensing hours”) for the words “subsections (2) to” there shall be substituted the word “ subsection ”.
- 3 In section 61 (orders varying permitted hours)—
  - (a) in subsection (1), for the words “subsections (3) and” there shall be substituted the word “ subsection ”; and
  - (b) for the words “either of those subsections”, in each place where they occur, there shall be substituted the words “ that subsection ”.
- 4 In section 62(3) (club to give justices written notice of hours fixed as the club’s permitted hours), after the word “hours”, in the first place where it occurs, there shall be inserted the words “on Sundays, Christmas Day and Good Friday”.
- 5 In section 68(1)(a) (extension of permitted hours in restaurants etc. to include the afternoon break), for the words after “period” there shall be substituted the words “, on Sundays, Christmas Day and Good Friday, between the first and second parts of the general licensing hours; ”.

### SCHEDULE 2

Section 3.

#### RESTRICTION ORDERS: PROCEDURE

Schedule Inserted after Schedule 8 to the Principal Act

*Status: Point in time view as at 01/02/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Licensing Act 1988 (repealed). (See end of Document for details)*

“SCHEDULE 8A

Sections 67A and 67C.

PROCEDURE FOR MAKING, VARYING OR REVOKING RESTRICTION ORDERS

**PART I**

APPLICATIONS TO LICENSING JUSTICES

*Notice of application*

- 1 (1) A person intending to apply to licensing justices for the making, variation or revocation of a restriction order with respect to any premises or part of any premises shall give notice of his intention to the clerk to the licensing justices and—
  - (a) in the case of an application for the making of an order, to the appropriate person in relation to the premises; and
  - (b) in the case of an application for the variation or revocation of an order—
    - (i) to the chief officer of police; and
    - (ii) subject to sub-paragraph (3) below, to the person or, if more than one, each of the persons on whose application the order was made.
- (2) The reference in sub-paragraph (1) above to the person or persons on whose application a restriction order was made is, in relation to any person who applied by virtue of a position held by him, a reference to the holder for the time being of that position.
- (3) Notice under this paragraph in the case of an application for the variation or revocation of a restriction order is not required to be given to a person on whose application the order was made if that person is no longer entitled to apply for the making of a restriction order with respect to the premises or, if he applied by virtue of a position held by him, it is not a position which is any longer held in the neighbourhood; and the obligation to give a person notice is discharged by giving it to him at his last known address.
- (4) Notice under this paragraph shall be in writing and specify in general terms the grounds of the application.
- (5) Notice under this paragraph shall be given not later than 21 days before the commencement of the licensing sessions at which the application is to be made.
- (6) Licensing justices shall not hear an application for the making, variation or revocation of a restriction order unless notice under this paragraph has been duly given.
- (7) For the purposes of this paragraph, the following person is the appropriate person in relation to the following premises—
  - (a) in the case of a theatre, the proprietor;
  - (b) in the case of any other licensed premises, the holder of the justices' licence; and
  - (c) in the case of premises for which a canteen licence is in force, the holder of the canteen licence.

*Objections to applications for variation or revocation*

- 2 (1) A person intending to oppose an application to licensing justices for the variation or revocation of a restriction order shall give notice of his intention to the applicant.



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- (2) Notice under this paragraph shall be in writing and specify in general terms the grounds of the opposition.
- (3) Notice under this paragraph shall be given not later than 7 days before the commencement of the licensing sessions at which the application is to be made.
- (4) Except as provided by sub-paragraph (5) below, licensing justices shall not entertain an objection unless notice under this paragraph has been duly given.
- (5) Where an objection of which notice under this paragraph has not been duly given is made to an application, the justices may adjourn consideration of the application to a day which they shall notify to the applicant and the objector and on that day the justices shall hear the application and the objection as if notice under this paragraph had been duly given.

#### *Evidence*

- 3 Evidence given on an application to licensing justices for the making, variation or revocation of a restriction order shall be given on oath.

## **PART II**

### **APPLICATIONS TO MAGISTRATES' COURTS**

#### *Notice of application*

- 4 (1) A magistrates' court shall not hear an application for the making, variation or revocation of a restriction order with respect to any premises unless satisfied that the applicant has given at least 21 days' notice of his intention to the following persons in accordance with this paragraph.
  - (2) The persons referred to are the clerk to the justices and—
    - (a) in the case of an application for the making of an order, the secretary of the club which is registered in respect of the premises to which the application relates; and
    - (b) in the case of an application for the variation or revocation of an order—
      - (i) the chief officer of police ; and
      - (ii) subject to sub-paragraph (4) below, the person or, if more than one, each of the persons on whose application the order was made.
  - (3) The reference in sub-paragraph (2) above to the person or persons on whose application a restriction order was made is, in relation to any person who applied by virtue of a position held by him, a reference to the holder for the time being of that position.
  - (4) Notice under this paragraph in the case of an application for the variation or revocation of a restriction order is not required to be given to a person on whose application the order was made if that person is no longer entitled to apply for the making of a restriction order with respect to the premises or, if he applied by virtue of a position held by him, it is not a position which is any longer held in the neighbourhood; and the obligation to give a person notice is discharged by giving it to him at his last known address.
  - (5) Notice under this paragraph shall be in writing and specify in general terms the grounds of the application.

*Status: Point in time view as at 01/02/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Licensing Act 1988 (repealed). (See end of Document for details)*

*Objections to applications for variation or revocation*

- 5 (1) A person intending to oppose an application to a magistrates' court for the variation or revocation of a restriction order shall give at least 7 days' notice of his intention to the applicant.
- (2) Notice under this paragraph shall be in writing and specify in general terms the grounds of the opposition.
- (3) Except as provided by sub-paragraph (4) below, a magistrates' court shall not entertain an objection unless notice under this paragraph has been duly given.
- (4) Where an objection of which notice under this paragraph has not been duly given is made to an application, the magistrates' court may adjourn consideration of the application to a day which it shall notify to the applicant and the objector and shall on that day hear the application and the objection as if notice of the objection had been duly given."

SCHEDULE 3

Section 19.

MINOR AMENDMENTS OF THE PRINCIPAL ACT

- 1 In section 7 (renewal of justices' licences)—
- (a) in subsection (2) (person intending to oppose application for renewal to give written notice of his intention to the applicant), after the word "applicant" there shall be inserted the words " and the clerk to the licensing justices "; and
- (b) subsection (3) (power to hear objection without notice) shall cease to have effect.
- 2 In section 9(5) (saving for disqualification under other enactments of premises for receiving a justices' licence), the words "of subsections (2) and (3)" shall be omitted.
- 3 In section 21 (appeals)—
- (a) in subsection (1) (decisions of licensing justices which may be appealed against), for the word "or" at the end of paragraph (e) there shall be substituted—
- “(ee) the revocation of a justices' licence; or”; and
- (b) in subsection (4) (power to extend justices' licence beyond expiry date), after the word "licence", in the second place where it occurs, there shall be inserted the words " or a decision by the licensing justices to revoke it ”.
- 4 In section 22 (procedural provisions as to appeals), the following subsection shall be inserted after subsection (3)—
- “(3A) On an appeal against a decision to revoke a justices' licence, any person on whose application the licence was revoked shall be respondent in addition to the licensing justices.”
- 5 In section 23 (powers of Crown Court on appeals), the following subsection shall be inserted after subsection (3)—
- “(4) Where the Crown Court allows an appeal against the revocation of a justices' licence which has been continued in force under section 21(4) of this Act, it

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- may order that the licence shall further continue in force until the date of the next licensing sessions for the district in which the licence is granted.”
- 6 In section 43(3) (grounds for refusing an application for the issue or renewal of a registration certificate), after the word “forfeiture” there shall be inserted the words “ or revocation ”.
- 7 In section 65 (six-day and early-closing licences)—
- (a) in subsection (1), after the words “on-licence” there shall be inserted the words “ , or on an application by the holder of such a licence, ”; and
- (b) for subsection (3) there shall be substituted—
- “(3) Licensing justices shall revoke a condition inserted under subsection (1) of this section on an application by the holder of the licence requesting them to do so.”
- 8 In section 76 (special hours certificates: permitted hours)—
- (a) in subsection (2), for paragraph (c) there shall be substituted—
- “(c) in any premises or part for which a certificate is in force subject to a limitation imposed in pursuance of section 78A or 81A of this Act, the permitted hours on any day to which the limitation relates shall not extend beyond the time specified in the certificate.”; and
- (b) in subsection (4), for the word “ten” there shall be substituted the word “twenty”.
- 9 In section 81B (special hours certificates: appeals)—
- (a) in subsection (1), for paragraphs (b) and (c), there shall be substituted the following—
- “(b) to attach or not to attach limitations under section 78A of this Act, or
- (c) to attach or not to attach limitations under section 81A of this Act.”; and
- (b) the following subsection shall be substituted for subsection (2)—
- “(2) Only the chief officer of police may appeal against a decision not to revoke a certificate as mentioned in paragraph (aa) of subsection (1) of this section or not to attach a limitation under section 81A(3) of this Act; and a person may appeal against a decision not to attach a limitation under section 81A(2) of this Act only if he has appeared before the licensing justices or magistrates’ court and made representations that the limitation be attached.”
- 10 In section 89(1) (duty of licensee to post notice where permitted hours modified), after the words “exemption” there shall be inserted the words “ , an order under section 87A of this Act ”.
- 11 In section 91 (procedure of licensing justices), for the words “81 or 81A(2)” there shall be substituted the words “ , 78A, 81 or 81A ”.
- 12 In section 95 (permitted hours in restaurants, etc.), subsection (1) shall cease to have effect.
- 13 The following section shall be inserted after section 150—

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**“150A Variation of description of intoxicating liquor authorised to be sold.**

If, after giving such notices as the licensing justices may require, the holder of a canteen licence so requests by an application under this section, the licensing justices may vary the description or descriptions of intoxicating liquor authorised to be sold.”

- 14 In section 151 (renewal of canteen licences)—
- (a) in subsection (3), for the words “a general annual licensing meeting” there shall be substituted the words “ the general annual licensing meeting immediately preceding the expiry of the licensing period for which the licence was granted ”; and
  - (b) in subsection (6), after the word “licence”, in the second place where it occurs, there shall be inserted the words “ and to the clerk to the licensing justices ”.
- 15 In section 154(1) (appeals in connection with canteen licences)—
- (a) in paragraph (d), for the words from “on” to “applicant’s” there shall be substituted the words “ do not comply with a ”; and
  - (b) the following paragraph shall be inserted after paragraph (e)—
    - “(ee) revoke a canteen licence under section 153A of this Act; or”.
- 16 In section 168(3)(a) (due diligence defence), for the word “used” there shall be substituted the words “ exercised all ”.
- 17 In section 169(1) (selling to persons under 18), for the words “subsections (4) and (10)” there shall be substituted the words “subsection (4)”.
- 18 In section 185 (duty of holder to produce certain licences and orders on demand) after the words “canteen licence” there shall be inserted the words “ , an order under section 87A of this Act ”.
- 19 The following section shall be inserted after section 196—

**“196A Extension to certain proceedings under this Act of section 97 of the Magistrates’ Courts Act 1980.**

- (1) For the purposes of section 97 of the Magistrates’ Courts Act 1980 (procuring the attendance of witnesses etc. at the hearing of a complaint) the following proceedings shall be treated as the hearing of a complaint—
  - (a) proceedings on an application—
    - (i) for the grant of a justices’ licence;
    - (ii) for the revocation of a justices’ licence or canteen licence; or
    - (iii) for the making, variation or revocation of a restriction order;
 and
  - (b) proceedings in connection with the exercise by licensing justices of the power to revoke a justices’ licence or canteen licence of their own motion.
- (2) Licensing justices before whom any such proceedings as are mentioned in subsection (1) above take place shall be treated for the purposes of section 97

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of the Magistrates' Courts Act 1980 as a magistrates' court for the petty sessions area constituting the licensing district.”

## SCHEDULE 4

Section 19.

### REPEALS

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1964 c. 26.	The Licensing Act 1964.	<p>In section 2(3)(b), the words “nor more than eight”.</p> <p>In section 6(4), the words after the end of paragraph (b).</p> <p>In section 7—</p> <p>in subsection (2), the words “except as provided by subsection (3) of this section”; and</p> <p>subsection (3).</p> <p>In section 9(5), the words “of subsections (2) and (3)”.</p> <p>In section 60—</p> <p>in subsection (1)(a), the words “with a break of two and a half hours beginning at three in the afternoon”;</p> <p>subsections (2) and (3); and</p> <p>in subsection (6), the words “half-past” and “and there shall be no afternoon break”.</p> <p>Section 62(2).</p> <p>In section 71(3), the words “to be made otherwise than by way of renewal of a previous order (without variation)”.</p> <p>In section 72(2), the words “renewed or”.</p> <p>In section 73(1), the words “or renewal”.</p> <p>Section 80(2).</p> <p>In section 92(4), the words from “except” to the end.</p>
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		In section 95, the words preceding “paragraph (a) of section 68(1)”.
		Section 151(5).
		In section 169—
		in subsection (1), the word “knowingly”, in the first place where it occurs; and subsection (10).
		In Schedule 2, paragraph 9.
1967 c. 54.	The Finance Act 1967.	In Schedule 7, paragraph 8.
1977 c. 45.	The Criminal Law Act 1977.	In Schedule 6, the entries relating to section 169 of the Licensing Act 1964.
		In Schedule 12, in the entry relating to the Licensing Act 1964, paragraph 2.
1980 c. 43.	The Magistrates’ Courts Act 1980.	In Schedule 7, paragraph 49.
1987 c. 2.	The Licensing (Restaurant Meals) Act 1987.	The whole Act.

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**Status:**

Point in time view as at 01/02/1991.

**Changes to legislation:**

There are currently no known outstanding effects for the Licensing Act 1988 (repealed).