



# Licensing Act 1872

## 1872 CHAPTER 94

### *Miscellaneous*

#### **60 Disqualification of justices to act under this Act.**

No justice shall act for any purpose under this Act, or under any of the Intoxicating Liquor Licensing Acts, except in cases where the offence charged is that of being found drunk in any highway or other public place, whether a building or not, or on any licensed premises, or of being guilty while drunk of riotous or disorderly conduct, or of being drunk while in charge, on any highway or other public place, of any carriage, horse, cattle, or steam engine, or of being drunk when in possession of loaded fire-arms, who is or is in partnership with or holds any share in any company which is a common brewer, distiller, maker of malt for sale, or retailer of malt or of any intoxicating liquor in the licensing district or in the district or districts adjoining to that in which such justice usually acts; and no justice shall act for any purpose under this Act, or under any of the Intoxicating Liquor Acts, in respect of any premises in the profits to which such justice 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.

Any justice hereby declared not to be qualified to act under this Act who knowingly acts as a justice for any of the purposes of this Act shall for every such offence be liable to a penalty not exceeding one hundred pounds, to be recovered by action in one of Her Majesty's Superior Courts at Westminster :

Provided that—

- (1) No justice shall be disqualified under this section to act in respect of any premises by reason of his having vested in him a legal interest only, and not a beneficial interest, in such premises or the profits thereof:
- (2) No justice shall be liable to a penalty for more than one offence committed by him under this section before the institution of any proceedings for the recovery of such penalty:

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- (3) No act done by any justice disqualified by this section shall by reason only of such disqualification be invalid.

**61 Extension of jurisdiction of justices over river or water, &c.**

For all the purposes of this Act any pier, quay, jetty, mole, or work extending from any place within the jurisdiction of any licensing justices or court of summary jurisdiction into or over any part of the sea, or any part of a river within the ebb and flow of the tide, shall be deemed to be within the jurisdiction of such justices and court.

For the purpose of jurisdiction in any proceeding under this Act, any river or water which runs between or forms the boundary of two or more licensing districts, or of the jurisdiction of two or more courts of summary jurisdiction, shall be deemed to be wholly within each such licensing district and the jurisdiction of each of such courts.

**62 Evidence of sale or consumption of intoxicating liquor.**

In proving the sale or consumption of intoxicating liquor for the purpose of any proceeding relative to any offence under this Act, it shall not be necessary to show that any money actually passed or any intoxicating liquor was actually consumed, if the court hearing the case be satisfied that a transaction in the nature of a sale actually took place, or that any consumption of intoxicating liquor was about to take place; and proof of consumption or intended consumption of intoxicating liquor on premises to which a license under this Act is attached, by some person other than the occupier of or a servant in such premises, shall be evidence that such liquor was sold to the person consuming, or being about to consume, or carrying away the same by or on behalf of the holder of such license.

**63 Avoidance of excise license on forfeiture of license.**

Where a license is forfeited in pursuance of this Act, or becomes void under any of the provisions of this Act, any license for the sale of intoxicating liquors granted by the Commissioners of Inland Revenue to the holder of such license shall be void.

**64 Production of license by holder, and penalty on non-production.**

Every holder of a license, or of an order of exemption made by a local authority in pursuance of this Act, shall, by himself, his agent, or servant, produce such license or order within a reasonable time after the production thereof is demanded by a justice of the peace, constable, or officer of inland revenue, and deliver the same to be read and examined by him. Any person who acts in contravention of this section shall be liable to a penalty not exceeding ten pounds.

**65 Population to be according to last census.**

The population of any area for the purposes of this Act shall be ascertained according to the last published census for the time being.

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**66 Moieties of penalties may be awarded to police superannuation fund.**

Any part not exceeding a moiety of any penalty recovered under this Act may, if the Court shall so direct, be paid to the superannuation fund of the police establishment within whose jurisdiction the offence in respect of which such penalties are imposed shall have occurred.

**67 Limit of mitigation of penalties.**

When any person holding a license under this Act is convicted of any offence against this Act, or against any of the Acts recited or mentioned in this Act, it shall not be lawful for the justices before whom he is convicted to mitigate or reduce the penalty for such offence to a less sum than twenty shillings: Provided that nothing herein contained shall extend to authorise the mitigation or reduction of any penalty, whether of excise or police, to a less sum than the minimum to which the same may under the provisions of any other Acts be mitigated or reduced

**68 Regulations as to retail licenses of wholesale dealers.**

No person shall sell by retail liqueurs or spirits under the authority of any retail license which such person shall have obtained as a wholesale spirit dealer from the Commissioners of Inland Revenue, except in premises occupied and used exclusively for the sale therein of intoxicating liquor, and which premises have no communication with the premises of nor are in any way occupied by a person who is carrying on any other trade or business, unless such person shall have first obtained from the licensing justices a license authorising such sale in premises not exclusively so occupied and used.

**69 Licenses for sale of liqueurs, &c. by retail not to be consumed on the premises.**

A license for the sale of liqueurs or spirits by retail not to be consumed on the premises may, where such license is required by this Act, be granted in the same manner in all respects in which a license for selling wine not to be consumed on the premises may by law be granted, and an application for such a license shall not be refused except upon one or more of the grounds on which a certificate in respect of a license to sell by retail beer, cider, or wine not to be consumed on the premises may be refused: Provided that in respect of any such license for liqueurs or spirits to be granted at any general annual licensing meeting, or adjournment thereof, held between the twentieth of August and the end of September in the year one thousand eight hundred and seventy-two, such notices only shall be required to be given, not exceeding seven days notice, as may be prescribed by the licensing justices.

Provided also, that nothing in this Act contained as to the requirement of a justice's license shall affect the sale of liqueurs or spirits or sweets under any excise license granted before the passing of this Act during the continuance of such excise license.

**70 Notices may be served by post.**

All notices and documents required by this Act to be served or sent may, unless otherwise expressly provided, be served and sent by post, and, until the contrary is proved, shall be deemed to have been served and received respectively at the time when the letter containing the same would be delivered in the ordinary course of post;

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and in proving such service or sending it shall be sufficient to prove that the letter containing the notice or document was prepaid, and properly addressed.

Where any officer or other person interested in any licensed premises is entitled to receive notice of a conviction under this Act, he shall supply his address to the clerk or other person required to send such notice, and any notice sent to such address shall be deemed to be duly served; and where no notice is supplied in pursuance of this section, all notices shall be deemed to be duly served if sent to any address which such clerk or other person in the exercise of his discretion believes to be the address of the person to whom the notice was so sent.

Provided that any notice of any offence required by this Act to be sent to the owner of licensed premises shall be either served personally or sent by registered letter.

## **71 Schedules to be part of Act.**

The schedules to this Act shall be construed and have effect as part of this Act.