



# Licensing Act 1964

## 1964 CHAPTER 26

### PART IV

#### RESTAURANTS AND GUEST HOUSES

#### **93 Provisions as to grant of certain licences for restaurants, guest houses, etc.**

- (1) In this Act "Part IV licence" means a justices' on-licence which—
  - (a) is granted for such premises and is subject to such conditions as are mentioned in section 94 of this Act; and
  - (b) is not subject to any other condition, except—
    - (i) conditions required to be attached to it under section 95 or 96 of this Act, or
    - (ii) a condition by virtue of which it is a six-day licence, early-closing licence or seasonal licence, or
    - (iii) in the case of a licence for club premises, conditions prohibiting or restricting sales of intoxicating liquor to non-members.
- (2) A Part IV licence is a restaurant licence, a residential licence or a residential and restaurant licence, according as it falls within subsection (1), (2) or (3) of section 94 of this Act.
- (3) Licensing justices shall not refuse an application duly made for the grant of a new Part IV licence or for the renewal or transfer of a Part IV licence, except on one or more of the grounds specified in section 98 of this Act; but this subsection shall not affect—
  - (a) the operation of any enactment relating to the disqualification of persons or premises for holding or receiving a justices' licence; or
  - (b) the application to any club premises of section 55(4) of this Act.
- (4) No licence shall be granted by way of removal of a Part IV licence.
- (5) Nothing in section 4(1) of this Act shall be taken to prevent the granting of a licence for wine alone or British wine alone as a Part IV licence.

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*Status: This is the original version (as it was originally enacted).*

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#### **94 Conditions attached to Part IV licences for restaurants, guest houses, etc.**

- (1) In this Act " restaurant licence " means a Part IV licence which—
  - (a) is granted for premises structurally adapted and bona fide used, or intended to be used, for the purpose of habitually providing the customary main meal at midday or in the evening, or both, for the accommodation of persons frequenting the premises; and
  - (b) is subject to the condition that intoxicating liquor shall not be sold or supplied on the premises otherwise than to persons taking table meals there and for consumption by such a person as an ancillary to his meal.
- (2) In this Act " residential licence" means a Part IV licence which—
  - (a) is granted for premises bona fide used, or intended to be used, for the purpose of habitually providing for reward board and lodging, including breakfast and one other at least of the customary main meals ; and
  - (b) is subject to the condition that intoxicating liquor shall not be sold or supplied on the premises otherwise than to persons residing there or their private friends bona fide entertained by them at their own expense, and for consumption by such a person or his private friend so entertained by him either on the premises or with a meal supplied at but to be consumed off the premises.
- (3) In this Act " residential and restaurant licence " means a Part IV licence which—
  - (a) is granted for premises falling within both paragraph (a) of subsection (1) and paragraph (a) of subsection (2) of this section ; and
  - (b) is subject to the condition that intoxicating liquor shall not be sold or supplied otherwise than as permitted by the conditions of a restaurant licence or by those of a residential licence.
- (4) The conditions as to the sale and supply of intoxicating liquor set out in subsection (1) (b) and subsection (2)(b) of this section—
  - (a) shall not extend to the supply for consumption on the premises of intoxicating liquor (whether inside or outside the permitted hours) in any case in which section 59 of this Act does not prohibit liquor being so supplied outside the permitted hours ;
  - (b) shall not extend to the sale of intoxicating liquor, or supply of liquor, sold on the premises under the authority of an occasional licence ;
  - (c) subject to paragraph (b) of this subsection, shall extend to all sales of intoxicating liquor, whether or not requiring the authority of a justices' licence.
- (5) It shall be an implied condition of any Part IV licence that suitable beverages other than intoxicating liquor (including drinking water) shall be equally available for consumption with or otherwise as an ancillary to meals served in the licensed premises.

#### **95 Permitted hours in premises for which restaurant or residential and restaurant licence is in force**

- (1) Where licensing justices grant a restaurant licence or a residential and restaurant licence, but as regards the use of the premises for the provision of the customary main meals it appears to them that it is only for a midday meal or only for an evening meal that the premises fall within paragraph (a) of section 94(1) of this Act, the justices shall attach to the licence a condition restricting the permitted hours in the premises so as to exclude any time after the afternoon break, or any time before it, as the case requires.

- (2) On the renewal or transfer of such a licence and at the request of the person applying for the renewal or transfer, or on an application by the holder, licensing justices shall revoke any such condition previously attached, if satisfied that it is no longer required by subsection (1) of this section.
- (3) Except where by such a condition the time before the afternoon break is excluded from the permitted hours, paragraph (a) of section 68(1) of this Act shall apply to any premises for which a restaurant licence or residential and restaurant licence is for the time being in force.

**96 Requirement of sitting accommodation for residential licence or residential and restaurant licence**

- (1) Where licensing justices grant a new residential licence or residential and restaurant licence, they shall, unless it appears to them that in the particular circumstances of the case there is good reason not to do so, attach to the licence a condition that there shall be afforded in the premises, for persons provided with board and lodging for reward, adequate sitting accommodation in a room not used or to be used for sleeping accommodation, for the service of substantial refreshment or for the supply or consumption of intoxicating liquor.
- (2) Where such a licence is granted without the condition required by subsection (1) of this section, licensing justices shall, on the renewal or transfer of the licence, attach the condition if by reason of any change of circumstances it appears to them that the requirement ought no longer to be dispensed with.

**97 Restrictions concerning justices' licences for restaurants and guest houses, etc.**

- (1) Licensing justices shall not attach to any new justices' on-licence—
  - (a) any conditions calculated to restrict the sale or supply of intoxicating liquor to a sale or supply in connection with the service of meals, other than such condition as is required to be attached to a restaurant licence (modified, if need be, to allow for any sale or supply which it is desired to authorise in addition to the sale or supply in connection with the service of table meals); or
  - (b) any conditions calculated to restrict the sale or supply of intoxicating liquor to a sale or supply to persons residing in the licensed premises, other than such condition as is required to be attached to a residential licence (modified, if need be, to allow for any sale or supply which it is desired to authorise in addition to a sale or supply to persons residing in the premises).
- (2) No justices' licence other than a restaurant licence shall be granted for a restaurant carried on under the powers of the Civic Restaurants Act 1947.
- (3) Paragraphs (a) to (c) of subsection (4) of section 94 of this Act shall apply also to any conditions which are in the same terms as those set out in subsection (1)(b) or subsection (2)(b) of that section but are attached to a justices' licence which is not a Part IV licence.

**98 Grounds for refusing applications for Part IV licences**

- (1) Licensing justices may refuse an application for the grant of a Part IV licence on any of the following grounds, that is to say,—

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- (a) that the applicant is not of full age, or is in any other respect not a fit and proper person to hold one;
  - (b) that the premises do not fall within paragraph (a) of subsection (1), (2) or (3), as the case may be, of section 94 of this Act, or are not suitable and convenient for the use contemplated by that paragraph, having regard to their character and condition, to the nature and extent of the proposed use and (where it applies) to the condition as to sitting accommodation required by section 96 of this Act or as to the supply of intoxicating liquor for consumption as an ancillary to a table meal only ;
  - (c) that within the twelve months preceding the application—
    - (i) a justices' on-licence for the premises has been forfeited; or
    - (ii) the premises have been ill-conducted while a justices' on-licence or a licence under the Refreshment Houses Act 1860 was in force for them; or
    - (iii) the condition as to sitting accommodation required by section 96 of this Act has been habitually broken while a residential licence or a residential and restaurant licence, or other licence with the like condition, was in force for the premises; or
    - (iv) the condition implied by section 94(5) of this Act as to the availability of beverages other than intoxicating liquor has been habitually broken while a Part IV licence, or other licence with the like condition, was in force for the premises.
- (2) Licensing justices may also refuse an application for the grant of a restaurant licence or residential and restaurant licence on the ground that the trade done in the premises in providing refreshment to persons resorting there (but not provided with board and lodging) does not habitually consist to a substantial extent in providing table meals of a kind to which the consumption of intoxicating liquor might be ancillary.
- (3) Licensing justices may also refuse an application for the grant of a Part IV licence on the ground that the sale or supply of intoxicating liquor on the premises is undesirable either because it would be by self-service methods, that is to say, methods allowing a customer to help himself on payment or before payment, or because—
- (a) in the case of a residential licence or a residential and restaurant licence, a large proportion of the persons provided with board and lodging for reward;
  - (b) in the case of a restaurant licence or a residential and restaurant licence, a large proportion of the persons resorting to the premises but not provided with board and lodging;
- is habitually made up of persons under the age of eighteen who are not accompanied by others (whether parents or persons of full age) who pay for them.
- (4) If on an application for the grant of a Part IV licence for any premises it is made to appear to the licensing justices on behalf of any such authority as is mentioned in subsection (5) of this section—
- (a) that the authority or an officer designated in that behalf by the authority desired in connection with the application to have the premises inspected as to the matters mentioned in paragraph (b) of subsection (1) of this section; and
  - (b) that after reasonable steps had been taken by or on behalf of the authority or officer for the purpose it was not possible to have the premises so inspected;
- the licensing justices may refuse the application.
- (5) The authorities referred to in subsection (4) of this section are—

- (a) (according to the situation of the premises) the Common Council of the City of London or the council of the county borough, London borough or county district; and
  - (b) the authority (if not included in paragraph (a) of this subsection) discharging in the area where the premises are situated the functions of fire authority under the Fire Services Act 1947 ; and
  - (c) the chief officer of police for the police area where the premises are situated.
- (6) Licensing justices refusing an application for the grant of a Part IV licence shall specify in writing to the applicant the grounds of their refusal.

### **99 Application for Part IV licence in place of other on-licence**

- (1) Where licensing justices refuse an application duly made for the grant of a new justices' on-licence other than a Part IV licence, they shall at the request of the applicant treat him as having also duly made an alternative application for such Part IV licence, relating to such descriptions of intoxicating liquor, as he may specify in the request.
- (2) Where on appeal quarter sessions refuse to confirm the grant of a new justices' on-licence other than a Part IV licence, they shall at the request of the holder of the licence treat the appeal as an appeal against the grant of such Part IV licence, relating to such descriptions of intoxicating liquor, as he may specify in the request and, if they dismiss that appeal, shall, on confirming the grant, attach to the licence the conditions required by the foregoing provisions of this Part of this Act.
- (3) On the renewal, transfer or removal of a justices' on-licence licensing justices may, at the request of the applicant made with the consent of the registered owner (if any) of the licensed premises, vary the licence by attaching the conditions required for it to be granted as a Part IV licence of the description specified in the request (in substitution for any conditions previously attached), and the renewal, transfer or removal of a justices' on-licence with such a variation shall not be refused except on the grounds on which a renewal may be refused of a licence of the description so specified.
- (4) Where under subsection (3) of this section conditions are attached to a justices' on-licence, the applicant for the renewal, transfer or removal may appeal notwithstanding that it is done at his request.

### **100 Power of court to disqualify for Part IV licences on conviction of certain offences**

- (1) Where a person is convicted of an offence committed in respect of any premises, and—
  - (a) the offence is one to which this paragraph applies; or
  - (b) the offence is one to which this paragraph applies, and the premises are premises for which, at the time of the offence, he held a Part IV licence;the court by or before which he is convicted may make a disqualification order under this section.
- (2) A disqualification order may, at the discretion of the court, be either—
  - (a) an order disqualifying the person convicted, for such period as may be specified in the order (but not exceeding five years from the date the order comes into force), from holding or obtaining Part IV licences or licences under the Refreshment Houses Act 1860; or

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- (b) an order prohibiting such licences from being held or granted within such period as aforesaid by or to any person in respect of the premises at which the offence in question was committed; or
  - (c) an order imposing both such a disqualification and such a prohibition;
- and, if such an order is made, any licence within the disqualification or prohibition, if previously obtained, shall be forfeited or, if subsequently obtained, shall be null and void.
- (3) Paragraph (a) of subsection (1) of this section applies to the following offences, that is to say:—
- (a) offences under sections 9, 18 and 32 of the Refreshment Houses Act 1860;
  - (b) offences under section 160 of this Act committed by the keeper of a refreshment house ;
  - (c) offences under section 84 (2) of this Act committed by the keeper of a refreshment house in connection with parties at the refreshment house.
- (4) Paragraph (b) of subsection (1) of this section applies to the following offences, that is to say.—
- (a) offences under sections 161, 172 and 177 of this Act;
  - (b) offences under sections 175 and 176 of this Act and any other offence of permitting the premises to be a brothel;
  - (c) offences under section 1(1) of the Betting, Gaming and Lotteries Act 1963;
  - (d) offences under section 10 of the Prevention of Crimes Act 1871.

### **101 Supplementary provisions as to disqualification orders**

- (1) The court making a disqualification order under section 100 of this Act may, on such conditions as it thinks just, suspend the operation of the order with a view to enabling a licence to remain in force pending an appeal against the conviction or against the making of the disqualification order, or pending the consideration of the question of bringing such an appeal; but, unless so suspended, a disqualification order under that section shall come into force on the day on which it is made.
- (2) A court shall not make such a disqualification order containing a prohibition on the holding or grant of licences in respect of premises specified in the order, unless an opportunity has been given to any person interested in the premises and applying to be heard by the court to show cause why the order should not be made.
- (3) At any time while such a disqualification order 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 any period of disqualification or prohibition specified in the order; and any person who has made a complaint under this section and is aggrieved by the decision of the court on that complaint may appeal to quarter sessions.
- (4) Where on complaint made under subsection (3) of this section the relief asked for is or includes the revocation or variation of a prohibition imposed by the order on the holding or grant of licences in respect of any premises, any summons granted on the complaint shall be served on the chief officer of police for the police area in which the premises are.
- (5) References in any enactment, including this Act, to a person disqualified for holding a justices' licence, or to premises disqualified for receiving a justices' licence, shall for the purposes of Part IV licences apply, but for other purposes shall not apply, to

persons or premises disqualified only by a disqualification order under section 100 of this Act.

- (6) The powers of the court under section 100 of this Act may be exercised on a conviction in addition to any other powers which the court is required to or does exercise on the conviction.