



# Licensing Act 1902

## 1902 CHAPTER 28

### PART II

#### AMENDMENT OF LICENSING LAW

#### **9 Record of conviction of licensed person**

- (1) Where a licensed person is convicted before any court of any offence committed by him as such, it shall be the duty of the clerk of the licensing justices to enter notice of every such conviction, in the form prescribed by the Secretary of State, in the register of licences kept by him, and if the clerk of the court is not the cleric of the licensing justices, he shall forthwith send notice of the conviction to the clerk of the licensing justices.
- (2) On any application for the grant, renewal, or transfer of a licence the licensing justices shall have regard to any entries in the register of licences relating either to the person by whom, or to the premises in respect of which, the licence is to be held.
- (3) When a conviction relating to any premises is entered in the register of licences, it shall be the duty of the clerk of the licensing justices to serve, in manner provided by the Licensing Act, 1872, notice of the conviction on the owner of the premises.
- (4) After the commencement of this Act no conviction shall be recorded on a licence.

#### **10 Powers of justices as to retail off-licences**

- (1) Notwithstanding anything contained in section seventy-three of the Licensing Act, 1872, a justices' licence shall be required in the case of every excise licence under which intoxicating liquor may be sold by retail to be consumed off the premises.

Provided that this subsection shall not apply to any excise licence taken out by a spirit dealer or wine dealer for premises which are exclusively used for the sale of intoxicating liquors, or of intoxicating liquors and mineral waters, or other non-intoxicating drinks, and which have no internal communication with the premises of any person who is carrying on any other trade or business.

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- (2) Notwithstanding anything contained in section eight of the "Wine and Beerhouse Act, 1869, and in sections sixty-nine and seventy-four of the Licensing Act, 1872, the licensing justices shall be at liberty in their free and unqualified discretion, except as herein-after provided, either to refuse a licence for the sale of beer, wine, spirits, liqueurs, sweets, or cider, by retail, to be consumed off the premises, on any grounds appearing to them sufficient, or to grant a licence to such persons as they deem fit and proper.
- (3) Any application for the grant of a licence, to which this section applies, in respect of any premises on which the applicant was, at the commencement of this Act, authorised to sell beer, wine, spirits, liqueurs, sweets, or cider by retail to be consumed off the premises, shall be deemed to be an application for the renewal of a licence, and shall be subject to the provisions of the Licensing Acts relating to the renewal of licences.
- (4) Provided that where a licence for the sale of wine, spirits, liqueurs, sweets, or cider, not to be consumed on the premises, was in force on the twenty-fifth day of June nineteen hundred and two, an application for the renewal of such licence, or of any licence granted by way of renewal thereof from time to time, shall not be refused to the person who held such licence on the twenty-fifth day of June nineteen hundred and two, except on one or more of the grounds on which it might have been refused if this Act had not passed, or on the ground that the licensee has sold surreptitiously under such licence, or has assisted in concealing or misrepresenting the nature of goods sold under such licence, or has in any other way, in the opinion of the licensing justices, been guilty of misconduct in the management of his business under such licence.

## **11 Control of justices over structure of licensed premises**

- (1) Where a person is intending to apply for a new licence for the sale of intoxicating liquors by retail to be consumed on the premises, he shall, not less than twenty-one days before the annual licensing meeting, deposit with the clerk to the licensing justices a plan of the premises in respect of which the application is to be made.
- (2) Any alteration in any licensed premises for the sale by retail of intoxicating liquors to be consumed thereon, which gives increased facilities for drinking, or conceals from observation any part of the premises used for drinking, or which affects the communication between the part of the premises where intoxicating liquor is sold and any other part of the premises, or any street or other public way, shall not be made without the consent of the licensing justices assembled either at the general annual licensing meeting or at special sessions under section four of the Alehouse Act, 1828, and the licensing justices may, before giving their consent, require plans of the proposed alterations to be deposited with their clerk at such time as they may determine; and if any such alteration is made, save under the order of some lawful authority, without such consent as aforesaid, a court of summary jurisdiction, on complaint, may by order declare the licence to be forfeited, or direct that, within a time fixed by the order, the premises shall be restored to their original condition.
- (3) Where a licence is forfeited under this section the owner of the premises shall have all the rights conferred on owners by section fifteen of the Licensing Act, 1874.
- (4) On any application for the renewal of a licence for the sale by retail of intoxicating liquors to be consumed on the premises, the licensing justices may require a plan of the premises to be produced before them, and to be deposited with their clerk, and on renewing any such licence they may, by order, direct that, within a time fixed by the order, such alterations as they think reasonably necessary to secure the proper conduct

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of the business shall be made in that part of the premises where intoxicating liquor is sold or consumed, but any such order shall be subject to an appeal to a court of quarter sessions as provided by the Alehouse Act, 1828, and if any such order for structural alteration is made and complied with, no further requisition for the structural alteration of the premises shall be made within the next five years. If the licensed person makes default in complying with any such order, he shall, on summary conviction, be liable to a fine not exceeding twenty shillings for every day during which the default continues.

- (5) Notice of any order under this section shall be forthwith given by the clerk to the owner of the premises in respect of which the order is made.

## **12 Removal of disqualification of justices interested in railways**

A justice shall not be disqualified to act for any purpose under the Licensing Acts, 1828 to 1886, or this Act, by reason only of his being interested in a railway company which is a retailer of intoxicating liquor.

## **13 Disqualifications of justices' clerks**

No solicitor or other person being a clerk of licensing justices, shall, by himself, his partner, or clerk, as solicitor or agent for any person, conduct or act in any application for or in respect of a licence or any other proceedings whatsoever under the Licensing Acts at any licensing or petty sessions held for the district for which, he is the clerk, except so far as relates to the preparation of notices or forms, and if any person contravenes this provision he shall be liable on summary conviction to a fine not exceeding one hundred pounds.

## **14 Date of annual licensing meeting**

- (1) The general annual licensing meeting in every licensing district shall be held within the first fourteen days of the month of February in each year, and every adjournment thereof shall be held within one month of the date of the general annual licensing meeting.
- (2) The general annual licensing meeting which would, but for this Act, be held between the twentieth day of August and the fourteenth day of September one thousand nine hundred and two shall not be held.
- (3) In every licensing district where the general annual licensing meeting would, but for this Act, be held between the twentieth day of August and the fourteenth day of September, inclusive, all licences within the meaning of the Licensing Acts, 1828 to 1886, and all billiard licences granted by the justices of the peace acting in and for any such district which are in force on the tenth day of October one thousand nine hundred and two, shall, notwithstanding anything in such licences or in the Licensing Acts, 1828 to 1886, to the contrary, upon production of such licence to the clerk of the licensing justices and upon payment to him of half of the fees which would have been payable if that licence had been renewed at a general annual licensing meeting held in August or September one thousand nine hundred and two, be and remain in force until the fifth day of April nineteen hundred and three, unless previously forfeited, or unless the person to whom or the premises in respect of which the licence was granted is or become disqualified. Upon payment of the said fees, the clerk to the licensing justices shall endorse a note of the payment on the licence.

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- (4) The Commissioners of Inland Revenue may renew any excise licence granted to any person holding a licence granted by the justices of the peace acting in and for any such licensing district which was in force on the tenth day of October one thousand nine hundred and two, upon production of that licence, in the same manner as if that licence had been renewed at a general annual licensing meeting held in August or September nineteen hundred and two.
- (5) The justices of the peace acting in and for any such licensing district shall, on some day within the month of October nineteen hundred and two, hold a special meeting, and shall at that meeting appoint not less than two nor more than four special sessions to be holden in the division during the period between the date of that meeting and the first day of February nineteen hundred and three at periods as near as may be equally distant, and at any such special sessions the justices shall have the same powers and jurisdiction as if the said days had been appointed at a general annual licensing meeting in accordance with the provisions of section four of the Alehouse Act, 1828, and the Licensing Acts, 1828 to 1886, shall have effect accordingly, and any licence granted at any such special sessions shall be in force until the fifth day of April one thousand nine hundred and three, and no longer.
- (6) This section shall not affect the power of the licensing justices under section eleven of the Wine and Beerhouse Act, 1870, to postpone to an adjourned meeting (whether held within one month of the date of the annual meeting or not) the consideration of an application for the grant or renewal of a licence, and the said section shall apply to all licences in like manner as it applies to licences under the Wine and Beerhouse Acts.
- (7) This section shall come into operation on the passing of this Act.

## **15 Restriction on protection orders**

Notwithstanding any enactment to the contrary, it shall not be lawful for a petty sessional court to authorise the sale of intoxicating liquor on any licensed premises until the holding of the next special sessions for the licensing district in which the premises are situate, unless the person making the application has, one week at least before the holding of the court, served on the superintendent of police for the district the like notice as is required in the case of an application for the transfer of a licence.

Provided that in any case of urgency the aforesaid notice to the police may be dispensed with if, in the opinion of the court, such notice to the police has been given as is reasonable under the circumstances of the particular case.

## **16 Provisions as to transfer**

- (1) In the case of an application for a licence under section four or section fourteen of the Alehouse Act, 1828, the person holding the licence and the person who it is proposed shall become the holder of the licence shall attend at the special sessions at which the application is heard, and the agreement or other assurance, if any, under which the licence is to be transferred and held shall be produced to the licensing justices, and, for the purpose of compelling the attendance of any such person, or any witness, the licensing justices shall have all the powers of a court of summary jurisdiction.

Provided that the licensing justices may, for good cause shown in any particular case, dispense with the attendance of either of such persons, or both.

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- (2) For the purpose of preventing repeated applications the licensing justices may at the general annual licensing meeting make regulations determining the time which must elapse after the hearing of one application for a licence under section four or section fourteen of the Alehouse Act, 1828, before another application under the said sections or either of them may be made in respect of the same premises. Provided that the justices may, in their discretion, for good cause shown, dispense with the observance of these regulations in any particular case.
- (3) The provisions of subsection two of section forty of the Licensing Act, 1872, as to notices of intention to transfer, shall apply to all cases of applications under section four or section fourteen of the Alehouse Act, 1828.
- (4) The provisions of subsection four of section four of the Wine and Beerhouse Act, 1870, with respect to the adjournment of an application for a transfer, shall apply to all licences in cases arising under section four or section fourteen of the Alehouse Act, 1828; and where any such application is adjourned, and there is in force an authority granted under the Licensing Act, 1842, to sell intoxicating liquor on the licensed premises, such authority shall continue in force till the hearing of the adjourned application, and the proper officer of Inland Revenue may give the like authority by indorsement on the excise licence.

## **17 Occasional licences**

- (1) An occasional licence shall not be granted except with the consent of a petty sessional court, and unless twenty-four hours at least before applying for that consent the applicant has served on the superintendent of police for the district- notice of his intention to apply for the consent, setting out his name and address, the place and occasion in respect of which the licence, is required, the period for which the licence is to be in force, and the hours to be specified in the consent of the justices. Provided that where there is no sitting of a petty sessional court within three days before the time when the licence is required, and it is shown to the satisfaction of the justices herein-after mentioned that it was not practicable to make an application to a petty sessional court, the consent may be given by any two justices acting for the division and sitting together, of which consent notice shall be sent to the superintendent of the police.
- (2) In section thirteen of the Revenue Act, 1862, section twenty of the Revenue Act, 1863, section five of the Revenue Act, 1864, and section nineteen of the Licensing Act, 1874, the consent required by this section shall be substituted for the consent in those sections mentioned.
- (3) Nothing in this section shall affect the provisions of section twenty-nine of the Licensing Act, 1872, which empower the local authority to extend the hours of closing on special occasions.

## **18 Additional notice of application for new licence**

In addition to the notices required by the Licensing Acts, 1828 to 1886, to be given by a person intending to apply for a new licence, that person shall, twenty-one days at least before the date of the general annual licensing meeting, serve on the clerk of the licensing justices notice of his intention, setting forth his name and address and a description of the licence or licences for which he intends to apply, and of the situation of the premises in respect of which the application is to be made.

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## **19 Confirmation of licences**

- (1) An application for the confirmation of the grant of a licence shall not be heard until twenty-one days at least have expired since the date of the grant of the licence.
- (2) A justices' licence to sell any intoxicating liquor for consumption only off the premises shall require confirmation in like manner as other licences.

## **20 Costs of justice whose decision is appealed against to be paid out of the county or borough funds**

In every case of appeal against the decision of any licensing justice the court to which such appeal is made shall adjudge and order that the treasurer of the county or place in and for which such justice whose decision is appealed against shall have acted on the occasion when he gave such decision shall pay to such justice such sum as in the opinion of the court shall be sufficient to indemnify such justice from all costs and charges whatsoever to which such justice may have been so put, and which cannot be recovered from any other person, and the said treasurer is hereby authorised to pay the same, which shall be allowed to him in his accounts. The order of the appellate court may be made either at the sessions when the appeal is heard, or at the next ensuing sessions, and the costs may be taxed either in or out of sessions.

## **21 Sessions not to be held in licensed premises**

From and after the thirty-first day of March one thousand nine hundred and seven, no meeting of justices in petty or special sessions shall be held in premises licensed for the sale of intoxicating liquors, or in any room, whether licensed or not, in any building licensed for the sale of intoxicating liquors; nor shall any coroner's inquest be held on such licensed premises where other suitable premises have been provided for such inquest.

## **22 Restaurant keepers' licences**

- (1) Notwithstanding anything contained in the Beerhouse Acts, no person, being a keeper of a restaurant or eating-house, shall be disqualified for receiving a licence under those Acts by reason only of the premises in respect of which he applies to be licensed not being a dwelling-house or of his not being the real resident holder and occupier thereof.
- (2) In this section the expression "the Beerhouse Acts" means the Beerhouse Act, 1834, the Beerhouse Act, 1840, and any enactment amending those Acts.

## **23 Naval and military canteens**

Notwithstanding any enactment to the contrary, it shall not be necessary for a person holding a canteen under the authority of a Secretary of State or of the Admiralty to obtain a justices licence or certificate to enable him to obtain or hold any excise license for the sale of any intoxicating liquor, and an excise license may be granted to any such person accordingly.