



London Local Authorities Act 1991

1991 CHAPTER xiii

PART II

SPECIAL TREATMENT PREMISES

4 Interpretation of Part II

In this Part of this Act unless the context otherwise requires—

“establishment for special treatment” means any premises in the borough used, intended to be used or represented as being used for the reception or treatment of persons requiring massage, manicure, acupuncture, tattooing, cosmetic piercing, chiropody, light, electric or other special treatment of a like kind or vapour, sauna or other baths but does not include—

- (a) any premises which are not used for gain or reward;
- (b) any premises where the special treatment is carried out by or under the supervision of—
 - (i) a medical practitioner duly registered by the General Medical Council; or
 - (ii) any bona fide member of a body of health practitioners which has given notice in writing to the borough council that it—
 - (A) has a register of members;
 - (B) requires as qualification for membership qualifications by way of training for, and experience of, the therapy concerned;
 - (C) requires its members to hold professional indemnity insurance;
 - (D) subjects its members to a code of conduct and ethics, including a prohibition of immoral conduct in the course of their practice; and
 - (E) provides procedures for disciplinary proceedings in respect of its members;

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- and has supported that notice with satisfactory documentary evidence, if required by the council; or
- (iii) in the case of acupuncture, a dentist registered under the Dentists Act 1984;
- (c) any premises which are used by a person who is registered by a board under the Professions Supplementary to Medicine Act 1960—
- (i) solely for the practice of the profession in respect of which he is so registered; or
- (ii) for the practice of the profession in respect of which he is so registered and for the conduct by him of any business ancillary to such practice and no other purpose;
- (d) any hospital provided by the Secretary of State or by a National Health Service Trust established under the National Health Service and Community Care Act 1990 or by a charity which is registered under section 4 of the Charities Act 1960 or is exempted from registration by subsection (4) of that section; or
- (e) any nursing home which is for the time being registered under Part II of the Registered Homes Act 1984 or exempted from registration under that Part of that Act;
- “licence” means a special treatment licence granted under section 6 (Licensing under

5 Application of Part II

This Part of this Act applies to a borough as from the appointed day.

6 Licensing under Part II

- (1) No premises shall be used in the borough as an establishment for special treatment except under and in accordance with a special treatment licence granted under this section by the borough council.
- (2) The borough council may grant to an applicant and from time to time renew or transfer a licence on such terms and conditions and subject to such restrictions as may be specified.
- (3) Without prejudice to the generality of subsection (2) above, such conditions may relate to—
- (a) the maintenance of public order and safety;
- (b) the number of persons who may be allowed to be on the premises at any time;
- (c) the qualifications of the persons giving the special treatment;
- (d) the taking of proper precautions against fire, and the maintenance in proper order of means of escape in case of fire, means for fighting fire and means of lighting, sanitation and ventilation of the premises;
- (e) the maintenance in safe condition of means of heating the premises;
- (f) the hours of opening and closing the establishment for special treatment;
- (g) the safety of any equipment used in connection with the special treatment and the way in which the treatment is given;
- (h) the cleanliness and hygiene of the premises and equipment;
- (i) the manner in which the establishment is operated and the way it is advertised.

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- (4) Provided it has not been cancelled or revoked the licence shall remain in force for 18 months or such shorter period specified in the licence as the borough council may think fit.

7 Applications under Part II

- (1) An applicant for the grant, renewal or transfer of a licence shall not later than the day the application is made send a copy to the Commissioner of Police and a copy to the London Fire and Civil Defence Authority and, subject to subsection (2) below, no such application shall be considered by the council unless the applicant complies with this subsection.
- (2) The borough council may in such cases as they think fit, after consulting with the Commissioner of Police and the London Fire and Civil Defence Authority, consider an application for the grant, renewal or transfer of a licence notwithstanding that the applicant has failed to comply with subsection (1) above.
- (3) In considering any application for the grant, renewal or transfer of a licence the borough council shall have regard to any observations submitted to them by the Commissioner of Police and the London Fire and Civil Defence Authority within 28 days of the making of the application and may have regard to any observations submitted by them thereafter.
- (4) An applicant for the grant, renewal, transfer or variation of a licence shall furnish such particulars and give such other notices, including the public advertisement of the application, as the borough council may by regulation prescribe.
- (5) Regulations under subsection (4) above may, inter alia, prescribe the procedure for determining applications.
- (6) An applicant for the grant, renewal or transfer of a licence shall pay a reasonable fee determined by the council.
- (7) Where, before the date of expiry of a licence, an application has been made for its renewal or transfer, the licence shall be deemed to remain in force or, as the case may require, to have effect with any necessary modifications until the determination of the application by the borough council or the withdrawal of the application.

8 Refusal of licence

The borough council may refuse to grant, renew or transfer a licence on any of the following grounds:—

- (a) the premises are not structurally suitable for the purpose;
- (b) there is a likelihood of nuisance being caused by reason of the conduct, management or situation of the premises or the character of the relevant locality or the use to which any premises in the vicinity are put;
- (c) the persons concerned or intended to be concerned in the conduct or management of the premises used for special treatment could be reasonably regarded as not being fit and proper persons to hold such a licence;
- (d) the persons giving the special treatment are not suitably qualified;
- (e) the premises have been or are being improperly conducted;
- (f) the premises are not provided with satisfactory means of lighting, sanitation and ventilation;

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- (g) the means of heating the premises are not safe;
- (h) proper precautions against fire on the premises are not being taken;
- (i) they are not satisfied as to the safety of equipment used in the special treatment or as to the manner in which the treatment is to be given;
- (j) they are not satisfied as to the safety of the special treatment to be given;
- (k) satisfactory means of escape in case of fire and suitable means for fighting fire are not provided on the premises;
- (l) the applicant has, within the period of five years immediately preceding the application to the borough council, been convicted of an offence under this Part of this Act; or
- (m) the applicant has failed to comply with the requirements of subsection (4) or (6) of section 7 (Applications under

9 Transmission and cancellation of licence

- (1) Subject to subsection (2) of this section, in the event of the death of the holder of a licence, the person carrying on at the place in respect of which the licence was granted the function to which the licence relates shall be deemed to be the holder of the licence unless and until the licence is transferred to some other person.
- (2) The borough council may revoke a licence held by a person by virtue of subsection (1) above for any of the grounds mentioned in section 8 (Refusal of licence) of this Act.
- (3) The borough council may, at the written request of the holder, cancel the licence.

10 Power to prescribe standard terms, conditions and restrictions

- (1) The borough council may make regulations prescribing standard conditions applicable to all, or any class of, licences, that is to say terms, conditions and restrictions on or subject to which licences, or licences of that class, are in general to be granted, renewed or transferred by them.
- (2) Where the borough council have made regulations under this section, every licence granted, renewed or transferred by them shall be deemed to have been so granted, renewed or transferred subject to any standard conditions applicable to it unless they have been expressly excluded or amended.

11 Provisional grant of licences

- (1) Where application is made to the borough council for the grant of a licence in respect of premises which are to be, or are in the course of being, constructed, extended or altered and the borough council are satisfied that the premises would, if completed in accordance with the requirements of the borough council, be such that they would grant the licence, the borough council may grant the licence subject to a condition that it shall be of no effect until confirmed by them.
- (2) The borough council shall, on application being made for the appropriate variation of the licence, confirm any licence granted by virtue of subsection (1) above if and when they are satisfied that the premises have been completed in accordance with the requirements of the borough council.

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12 Variation of licences

- (1) The holder of a licence may at any time apply to the borough council for a variation in the terms, conditions or restrictions on or subject to which the licence is held.
- (2) The person making an application for such a variation of a licence shall on making the application pay to the borough council a reasonable fee determined by the council.
- (3) The borough council may—
 - (a) make the variation specified in the application;
 - (b) make that variation together with such further variation consequent thereon as the council may determine; or
 - (c) refuse the application.

13 Part II appeals

- (1) Any of the following persons, that is to say:—
 - (a) an applicant for the grant, renewal or transfer of a licence whose application is refused;
 - (b) an applicant for the grant, renewal or transfer of a licence who is aggrieved by any term, condition or restriction on or subject to which the licence is granted, renewed or transferred;
 - (c) an applicant for the variation of the terms, conditions or restrictions on or subject to which a licence is held whose application is refused;
 - (d) an applicant for the variation of the terms, conditions or restrictions on or subject to which a licence is held who is aggrieved by any term, condition or restriction contained in a further variation made consequent on the variation applied for;
 - (e) the holder of a licence which is revoked under section 9 (Transmission and cancellation of licence) or section 14 (Enforcement of Part II) of this Act; may at any time before the expiration of the period of 21 days beginning with the relevant date appeal to the magistrates' court acting for the petty sessions area in which the premises are situated by way of complaint for an order.
- (2) In this section “the relevant date” means the date on which the person in question is notified in writing of the refusal of his application, the imposition of the terms, conditions or restrictions by which he is aggrieved or the revocation of his licence, as the case may be.
- (3) An appeal by either party against the decision of the magistrates' court under this section may be brought to the Crown Court.
- (4) On an appeal to the magistrates' court or to the Crown Court under this section the court may make such order as it thinks fit and it shall be the duty of the borough council to give effect to such order.
- (5) Where any licence is revoked under section 14 (Enforcement of Part II) of this Act or an application for the renewal of a licence is refused, the licence shall be deemed to remain in force—
 - (a) until the time for bringing an appeal under this section has expired and, if such an appeal is duly brought, until the determination or abandonment of the appeal; and

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- (b) where an appeal relating to the refusal of an application for such a renewal is successful until the licence is renewed by the borough council.
- (6) Where any licence is renewed under section 6 (Licensing under Part II) of this Act and the borough council specify any term, condition or restriction which was not previously specified in relation to that licence, the licence shall be deemed to be free of it until the time for bringing an appeal under this section has expired and, if such an appeal is duly brought, until the determination or abandonment of the appeal.
- (7) Where the holder of a licence makes an application under section 12 (Variation of licences) of this Act and the borough council make the variation applied for together with a further variation, then the licence shall continue as it was before the application—
 - (a) until the time for bringing an appeal under this section against any term, condition or restriction contained in the further variation has expired; and
 - (b) where any such appeal is brought, until the determination or abandonment of the appeal.

14 Enforcement of Part II

- (1) If any occupier or other person concerned in the conduct or management of premises in the borough uses them as an establishment for special treatment or represents them as being so used or permits the premises to be so used he shall, unless the premises are currently licensed by the borough council under this Part of this Act, be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (2) If any premises in respect of which a licence is in force are used as an establishment for special treatment otherwise than in accordance with the terms, conditions or restrictions on or subject to which the licence is held, then the holder of the licence or other person concerned in the conduct or management of the premises shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (3) Subject to section 13 (Part II appeals) of this Act, the borough council may revoke a licence if its holder is convicted of an offence under subsection (2) above.

15 Powers of entry

- (1) Any duly authorised officer or duly authorised officer of the London Fire and Civil Defence Authority (on production, if so required, of a duly authenticated document showing his authorisation) or any constable, may at all reasonable times enter upon, inspect and examine any premises which are, or which he has reasonable cause to believe are—
 - (a) used, represented as being used, or intended to be used as an establishment for special treatment without the requisite licence; or
 - (b) used in contravention of the terms, conditions or restrictions on or subject to which a licence is granted; and may do all things reasonably necessary for the purpose of ascertaining whether an offence has been committed.
- (2) Subsections (2), (3) and (4) of section 287 of the Public Health Act 1936 shall apply in respect of entry to premises for the purposes of this section as they apply to entry to premises for the purposes of subsection (1) of that section.

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- (3) Any person who intentionally obstructs any person acting in the exercise of his powers under this section shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

16 Application to existing special treatment premises

- (1) In respect of premises licensed or registered under an enactment specified in the Schedule to this Act on the date this Part of this Act comes into force in the borough in which the premises are situated, section 6 (Licensing under Part II) of this Act shall not apply until the expiry of the licence or registration granted under that enactment.
- (2) If, on an application for a licence duly made under this Part of this Act in respect of any such premises as are referred to in subsection (1) above—
- (a) the application is refused; or
 - (b) the licence is granted subject to a term, condition or restriction additional to those attached to the licence or registration under the earlier enactment;
- then in a case falling within paragraph (a) above this Part of this Act shall have effect as though the applicant held a licence on and subject to the same terms, conditions and restrictions as under the previous licence or registration and the application had been for the renewal thereof, and in a case falling within paragraph (b) above this Part of this Act shall have effect as though the applicant held such a licence which had been renewed with a term, condition or restriction not previously specified in relation to the licence.
- (3) Where premises to which subsection (1) above does not apply are lawfully being used as an establishment for special treatment immediately before the date on which this Part of this Act comes into force in the borough in which the premises are situated, and an application for the grant of a licence is duly made before that date in respect of the premises, this Part of this Act shall have effect as though the applicant held a licence free of any terms, conditions or restrictions and the application had been for the renewal thereof.

17 Repeal

Subject to section 16 (Application to existing special treatment premises) of this Act, the enactments specified in column (2) of the Schedule to this Act, so far as they relate to any part of Greater London, and bye-laws made thereunder, shall cease to have effect in a borough on the day which the council of that borough resolve to be the appointed day for the purposes of this Part of this Act.