



Licensing Act 1964

1964 CHAPTER 26

PART I

THE GENERAL LICENSING SYSTEM

Justices' licences and provisions as to licensing justices

1 Justices' licences

- (1) In this Act and the Customs and Excise Act 1952 " justices' licence " means a licence under this Part of this Act authorising the holder to hold an excise licence for the sale by retail of intoxicating liquor (and also, in the case of a licence granted to a club for club premises, for its supply to or to the order of members otherwise than by way of sale).
- (2) In this Act " justices' on-licence " and " justices' off-licence " mean respectively—
 - (a) a justices' licence authorising the holding of a retailer's on-licence (within the meaning of the said Act of 1952) that is to say, a licence authorising sale for consumption either on or off the premises for which the licence is granted; and
 - (b) a justices' licence authorising the holding of a retailer's off-licence (within the meaning of that Act) that is to say, a licence authorising sale for consumption off those premises only.
- (3) A justices' licence shall be in such form as the Secretary of State may prescribe and may authorise the person to whom it is granted to hold as many excise licences as the justices' licence may specify.

2 Licensing justices and districts

- (1) The licensing districts for the purposes of this Act shall be—
 - (a) in the administrative county of London, the City of London and each of the petty-sessional divisions of the rest of the administrative county;

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- (b) outside the administrative county of London, every borough having a separate commission of the peace and every other petty sessions area.
- (2) The licensing justices shall be—
- (a) for the City of London, a committee of the justices for the City;
 - (b) for a borough having a separate commission of the peace, a committee of the borough justices (which shall be known as the borough licensing committee);
 - (c) for any other petty sessions area, a committee (which shall be known as the divisional licensing committee) of the county justices acting for that area or, if the county is not divided into petty-sessional divisions, of the county justices.
- (3) For the purpose of carrying out their functions under this Act the licensing justices for each district shall hold licensing sessions as follows, that is to say.—
- (a) a general annual licensing meeting, and
 - (b) not less than four nor more than eight transfer sessions,
- in the twelve months beginning with February in every year.
- (4) Except where this Act otherwise provides, all powers exercisable by licensing justices under this Act may be exercised at any licensing sessions, but this subsection shall not affect the operation of any enactment in so far as it expressly authorises licensing justices to act otherwise than at a licensing sessions.
- (5) Part I of Schedule 1 to this Act shall have effect with respect to the constitution and procedure of licensing committees and Part II thereof with respect to the holding of licensing sessions.

Grant of justices' licence

3 Grant of justices' licence

- (1) Licensing justices may grant a justices' licence to any such person, not disqualified under this or any other Act for holding a justices' licence, as they think fit and proper.
- (2) A justices' licence may be granted as a new licence or by way of renewal, transfer or, subject to section 93(4) of this Act, removal.
- (3) In this Act—
- (a) renewing a justices' licence means granting a justices' licence for any premises to the holder of a similar licence in force for those premises ;
 - (b) removing a justices' licence means taking it from the premises for which it was granted and granting it for other premises;
 - (c) transferring a justices' licence means granting it for any premises to a person in substitution for another person who holds or has held a licence for those premises.
- (4) Schedule 2 to this Act shall have effect with regard to the procedure to be followed in relation to applications for the grant of a justices' licence.

4 New licences

- (1) Subject to the provisions of Part IV of this Act, licensing justices granting a new justices' on-licence, other than a licence for the sale of wine alone or British wine alone, may attach to it such conditions governing the tenure of the licence and any

other matters as they think proper in the interests of the public; but no payment may be required in pursuance of a condition attached under this subsection.

- (2) Subject to section 113 of this Act, licensing justices shall not grant a new justices' on-licence for premises unless the premises are in their opinion structurally adapted to the class of licence required.

5 Removals

- (1) Subject to the following provisions of this Act, licensing justices shall have the same power to grant a removal of a justices' licence as they have to grant a new licence.
- (2) Licensing justices may grant an ordinary removal to premises in their licensing district from any other premises, whether in that district or not.
- (3) An application for a removal shall be made by the person wishing to hold the licence after the removal.
- (4) Subject to sections 113, 122 and 126 of this Act, licensing justices shall not grant the removal of a justices' on-licence to any premises unless in their opinion the premises are structurally adapted to the licence.
- (5) Licensing justices shall not grant an ordinary removal unless they are satisfied that no objection to the removal is made—
 - (a) where the licence is a justices' on-licence, by the owner of the premises from which it is sought to remove the licence or by the holder of the licence,
 - (b) where the licence is a justices' off-licence, by the holder of the licence, or by any person other than the owner of the said premises and the holder of the licence or, as the case may be, other than the holder of the licence, whom the justices consider to have a right to object to the removal.
- (6) In this Act, "ordinary removal" means a removal which is neither a special removal (as defined in section 15(2) of this Act) nor a planning removal or temporary premises removal (as defined in sections 121(2) and 126(2) of this Act respectively).

6 Provisional grant of new licence or removal

- (1) Where licensing justices are satisfied, on application made by a person interested in any premises which are—
 - (a) about to be constructed or in the course of construction for the purpose of being used as a house for the sale of intoxicating liquor (whether for consumption on or off the premises); or
 - (b) about to be altered or extended or in the course of alteration or extension for that purpose (whether or not they are already used for that purpose);that the premises, if completed in accordance with plans deposited under this Act, would be such that they would have granted a justices' on-licence or a justices' off-licence for the premises, they may make a provisional grant of such a licence for those premises.
- (2) Any such application may be made either for the provisional grant of a new licence or for a provisional removal of a licence to the premises, and the grant may be made accordingly.

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- (3) On an application by the holder of a provisional licence, licensing justices may consent to any modifications of the deposited plans where, in their opinion, the premises, if completed in accordance with the modified plans, will be fit and convenient for their purpose.
- (4) Licensing justices shall, after such notice has been given as they may require, declare a provisional grant final on being satisfied—
- (a) that the premises have been completed in accordance with the plans deposited, or in accordance with those plans with modifications consented to under the preceding subsection; and
 - (b) that the holder of the provisional licence is not disqualified by this or any other Act for holding a justices' licence and is in all other respects a fit and proper person to hold a justices' licence ;
- and until the provisional grant has been declared final it shall not be valid.
- (5) If on an application for the provisional grant of a justices' licence the applicant deposits, instead of plans of the premises, a plan sufficient to identify the site of the premises, together with such description of the premises as will give a general indication of their proposed size and character (with reference in particular to the sale of intoxicating liquor), then—
- (a) the licensing justices shall deal with the application as if the site plan and description deposited instead were the deposited plans, and shall assume that the premises will be fit and convenient for their purpose; but
 - (b) any provisional grant of a licence made on the application shall become ineffective unless affirmed under subsection (6) of this section in pursuance of an application made at a licensing sessions held within the twelve months following the date of the grant (or, where there is an appeal, the date the appeal is disposed of).
- (6) Where licensing justices make a provisional grant of a licence by virtue of subsection (5) of this section the holder of the provisional licence may apply for the grant to be affirmed, and shall give notice of the application and deposit plans, as if he were applying (otherwise than under that subsection) for the grant of the licence; and the licensing justices shall affirm the provisional grant if satisfied that the premises, if completed in accordance with the plans deposited, will be fit and convenient for their purpose.

7 Renewals

- (1) Licensing justices may not renew a justices' licence at transfer sessions, except where the licence was due for renewal at the preceding general annual licensing meeting and the justices are satisfied that the applicant had reasonable cause for not applying for renewal at that meeting.
- (2) A person intending to oppose an application for the renewal of a justices' licence shall give notice in writing of his intention to the applicant, specifying in general terms the grounds of the opposition, not later than seven days before the commencement of the licensing sessions at which the application is to be made, and unless notice has been so given the licensing justices shall not entertain the objection, except as provided by subsection (3) of this section.
- (3) Where notice has not been given as required by subsection (2) of this section, the justices may, on objection being made to the renewal, adjourn consideration of the

application to a day of which they shall give notice to the applicant and the objector, and shall on that day hear the application and the objection as if notice of intention to oppose had been given.

- (4) Evidence given on an application for the renewal of a justices' licence shall be given on oath.
- (5) Where the holder of a justices' licence fails to apply for its renewal at the general annual licensing meeting at which it is due for renewal, and the licence expires in consequence of his failure, an application by him for a similar licence for the same premises shall be treated as an application for renewal, and the grant of the licence applied for shall be treated as a renewal of the expired licence, if the application is made not later than the next general annual licensing meeting and the licensing justices are satisfied that he had reasonable cause for his failure.

8 Transfers

- (1) Subject to sections 138 and 145 of this Act, licensing justices shall not grant a transfer of a justices' licence except in the following cases and to the following persons, that is to say—
 - (a) where the holder of the licence has died, to his representatives or the new tenant or occupier of the premises;
 - (b) where the holder of the licence becomes incapable through illness or other infirmity of carrying on business under the licence (and notwithstanding that the licence may have ceased to be in force before the transfer), to his assigns or the new tenant or occupier of the premises;
 - (c) where the holder of the licence is adjudged bankrupt, or a trustee is appointed in pursuance of a composition or scheme within the meaning of the Bankruptcy Act 1914 to administer the property or manage the business of the holder of the licence, or a trustee is appointed under a deed of arrangement within the meaning of the Deeds of Arrangement Act 1914 for the benefit of the creditors of the holder of the licence, to his trustee or the new tenant or occupier of the premises;
 - (d) where the holder of the licence has given up or is about to give up, or his representatives have given up or are about to give up, occupation of the premises, to the new tenant or occupier of the premises or the person to whom the representatives or assigns have, by sale or otherwise, bona fide conveyed or made over the interest in the premises;
 - (e) where the occupier of the premises, being about to quit them, has wilfully omitted or neglected to apply for the renewal of the licence, to the new tenant or occupier of the premises ;
 - (f) where the owner of the premises or some person on his behalf has been granted a protection order under section 10(3) of this Act and application for the transfer is made at the first or second licensing sessions begun after the making of that order, to the owner or person applying on his behalf.
- (2) For the purposes of paragraph .(d) of the preceding subsection, a person occupying premises for the purpose of carrying on business under a licence shall be treated as giving up occupation on his giving up the carrying on of the business, notwithstanding that he remains temporarily in occupation of the premises or part of them.
- (3) The foregoing provisions of this section, except paragraphs (e) and (f) of subsection (1), shall apply in relation to the transfer of a provisional licence as if the

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licence were in force, and shall, as so applying, be construed as if " occupation " included intended occupation, and similarly as respects other expressions.

- (4) Licensing justices may, at their general annual licensing meeting, make regulations determining the time that must elapse after the hearing of an application for transfer before another such application may be made in respect of the same premises; but licensing justices may in any particular case dispense with the observance of regulations made under this subsection.

9 Persons and premises disqualified for holding or receiving a justices' licence

- (1) Without prejudice to the provisions of this or any other Act whereby a person may be disqualified for holding a justices' licence, the following persons shall be so disqualified, that is to say—
- (a) a sheriff's officer or officer executing the legal process of any court;
 - (b) a person convicted, whether under this Act or otherwise, of forging a justices' licence or making use of a forged justices' licence knowing it to have been forged;
 - (c) a person convicted, whether under this Act or otherwise, of permitting to be a brothel premises for which at the time of the conviction he held a justices' licence.
- (2) Where within a period of two years two persons severally holding a justices' licence for any premises forfeit their licences, the premises shall be disqualified for receiving a justices' licence for a period of twelve months following the second forfeiture.
- (3) Premises shall be disqualified for receiving a justices' licence if they are situated on land acquired or appropriated by a special road authority, and for the time being used, for the provision of facilities to be used in connection with the use of a special road provided for the use of traffic of class I (with or without other classes).
- (4) For the purpose of subsection (3) of this section—
- (a) " special road " and " special road authority " have the same meanings as in the Highways Act 1959, except that " special road " includes a trunk road to which by virtue of section 19 of that Act the provisions of that Act apply as if the road were a special road ; and
 - (b) " class I " means class I in Schedule 4 to that Act as varied from time to time by any order under section 12 of that Act, but if that Schedule is amended by such an order so as to add to it a further class of traffic, the order may adapt the reference in subsection (3) of this section to traffic of class I so as to take account of the additional class.
- (5) The provisions of subsections (2) and (3) of this section shall be without prejudice to the disqualification under any other Act of premises for receiving a justices' licence.
- (6) A justices' licence purporting to be held by any person disqualified for holding a licence, or attached to premises disqualified for receiving a licence, shall be void.

Protection orders

10 Protection orders

- (1) A person who proposes to apply for the transfer of a justices' licence for any premises may apply to justices of the peace acting for the petty sessions area in which the premises are for the grant of an authority, in this Act referred to as a " protection order ", to sell intoxicating liquor on the premises, and the justices may grant the protection order if they are satisfied that the applicant is a person to whom the licensing justices could grant a transfer of the licence.
- (2) The authority conferred by a protection order in respect of any premises shall be the same as that conferred by the justices' licence in force (or last in force) for those premises; and, while the order is in force, the enactments relating to the sale of intoxicating liquor and to licensed premises (other than those relating to the renewal or transfer of licences or to protection orders) shall apply to the person granted the order as if he were the holder of that licence and the holder also, until the expiration of the term for which it was granted, of any excise licence taken out for the premises before the making of the protection order.
- (3) Where—
 - (a) a justices' licence for any premises is forfeited for the first time by virtue of a second or subsequent conviction under section 160 of this Act or of a conviction under section 184 thereof, or
 - (b) a justices' licence for any premises is forfeited by order of a magistrates' court made on complaint under section 20(3) of this Act, or
 - (c) a justices' licence for any premises is forfeited by order of a court under section 169(8) of this Act, or
 - (d) a justices' licence for any premises is forfeited by virtue of a disqualification order made under section 100 of this Act, or
 - (e) the holder of a justices' licence for any premises becomes disqualified for the first time for holding such a licence by reason of being convicted as mentioned in section 9(1) of this Act,justices of the peace may grant a protection order to any owner of the premises or any other person authorised by an owner of the premises, notwithstanding the forfeiture or the previous licence holder's disqualification; but not more than one protection order may be granted under this subsection on any such forfeiture or disqualification.
- (4) A protection order shall remain in force until the conclusion of the second licensing sessions begun after the date of the order (and until any application made at the sessions for a transfer of the justices' licence has been disposed of) except that it shall cease to have effect before that time on the coming into force of a justices' licence granted by way of transfer or removal of the licence for the premises, or the coming into force of a further protection order for the premises.
- (5) Where the holder of a justices' licence dies, or is adjudged bankrupt, or a trustee is appointed in pursuance of a composition or scheme within the meaning of the Bankruptcy Act 1914 to administer the property or manage the business of the holder of a justices' licence, or a trustee is appointed under a deed of arrangement within the meaning of the Deeds of Arrangement Act 1914 for the benefit of the creditors of the holder of a justices' licence, the personal representatives or trustee shall be in the same position as regards carrying on business under the licence as a person to whom

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a protection order had been validly granted on the date of the death, adjudication in bankruptcy or appointment of a trustee as aforesaid.

11 Supplementary provisions relating to protection orders

- (1) A protection order may be made for any premises so as to supersede a previous protection order (other than one made under section 10(3) of this Act), if the justices making the order are satisfied that the person granted the previous protection order consents to its being superseded, or that he no longer proposes to apply for a transfer of the licence or is not qualified to do so, or that he is for any reason unable to carry on business under the protection order.
- (2) Justices of the peace to whom application is made for a protection order may examine on oath the applicant or any person giving evidence before them.
- (3) Justices of the peace shall not grant a protection order unless the applicant has, not less than seven days before the application, given notice in writing to the chief officer of police, signed by the applicant or his authorised agent, and stating his name and address and his trade or calling during the six months preceding the giving of the notice ; or, in an urgent case, unless the applicant has given such notice to the police as the justices think reasonable.
- (4) Justices of the peace granting a protection order shall cause a memorandum of the order to be endorsed on the licence, or, where a copy of the licence is admissible in evidence, on a copy of the licence; and a majority of the justices shall sign the memorandum or the justices shall cause the clerk to the justices to seal or stamp it with the official seal or stamp of the magistrates' court of which he is clerk and to verify the seal or stamp by his signature.
- (5) A memorandum purporting to be made under subsection (4) of this section shall be received in evidence.
- (6) Where a protection order has been granted to any person, the proper officer of Customs and Excise shall endorse a memorandum of the order on the excise licence.
- (7) The power of justices of the peace to grant protection orders shall be exercisable by the number of justices, and in the place, required by the Magistrates' Courts Act 1952 for the hearing of a complaint.

Old on-licences

12 Restricted power of licensing justices to refuse renewal or transfer of old on-licences

- (1) In this Act—

" old on-licence " means a justices' on-licence, other than one for the sale of wine alone or British wine alone, granted by way of renewal from time to time of a licence in force on 15th August 1904, or of a licence that before that day had been provisionally granted and confirmed under section 22 of the Licensing Act 1874 where the grant and confirmation have been subsequently declared final, except that it does not include a licence varied under section 37 of this Act or granted by way of renewal from time to time of a licence so varied ; and

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" old beerhouse licence " means an old on-licence for the sale of beer or cider, with or without wine, granted by way of renewal from time to time of a licence for premises for which a corresponding excise licence was in force on 1st May 1869 ;

no account being taken of any transfer nor, except for the purpose of determining whether a licence is an old beerhouse licence, of any removal.

- (2) Subject to any disqualification of the applicant or of the premises to which the application relates, licensing justices shall not refuse an application for the renewal of an old on-licence except on one or more of the following grounds, that is to say—
- (a) in the case of an old beerhouse licence, those specified in subsection (3) of this section;
 - (b) in the case of any other old on-licence, those specified in subsection (4) of this section ;

and, in either case, the ground that there has been entered in the register of licences a conviction of bribery or treating made in pursuance of section 146(6) of the Representation of the People Act 1949.

- (3) The renewal of an old beerhouse licence may be refused on the ground—
- (a) that the applicant has failed to produce satisfactory evidence of good character; or
 - (b) that the house or shop to which the application relates, or any adjacent house or shop owned or occupied by him, is of a disorderly character, or frequented by thieves, prostitutes or persons of bad character; or
 - (c) that a licence previously held by the applicant for the sale of wine, spirits, beer or cider has been forfeited for his misconduct, or that he has previously been adjudged for his misconduct disqualified for receiving such a licence or for selling wine, spirits, beer or cider.
- (4) The renewal of an old on-licence other than an old beerhouse licence may be refused on the ground—
- (a) that the applicant is not a fit and proper person to hold the licence; or
 - (b) that the licensed premises have been ill-conducted or are structurally deficient or structurally unsuitable,

and for the purposes of paragraph (b) of this subsection, premises shall be deemed to have been ill-conducted if, among other things, the holder of the licence has persistently and unreasonably refused to supply suitable refreshment, other than intoxicating liquor, at a reasonable price, or has failed to fulfil any reasonable undertaking given to the justices on the grant of the licence.

- (5) Where an application is made for the renewal of an old on-licence and the licensing justices ask the applicant to give an undertaking, they shall adjourn the hearing of the application and cause notice of the undertaking for which they ask to be served on the registered owner of the premises and shall give him an opportunity of being heard.
- (6) Licensing justices refusing to renew an old on-licence shall specify to the applicant in writing the grounds of their refusal.
- (7) Subsections (2) to (6) of this section shall apply to the transfer of an old on-licence as they apply to the renewal of such a licence, except that the transfer of an old beerhouse licence may also be refused on the ground that the applicant is not a fit and proper person to hold the licence.

13 Reference of application for renewal or transfer to compensation authority

- (1) Subject to section 125 of this Act, where the licensing justices, on consideration in accordance with this Act of an application for the renewal or transfer of an old on-licence, are of opinion that the question of renewal or transfer requires consideration on grounds other than those on which they can refuse it, they shall refer the matter to the compensation authority together with their report thereon.
- (2) The compensation authority shall consider all reports made to them under this section and may refuse the renewal or transfer of any licence to which any such report relates, but shall not do so without giving an opportunity to be heard—
 - (a) to the persons interested in the licensed premises ; and
 - (b) unless it appears to the compensation authority unnecessary, to any other persons appearing to them to be interested in the question of the renewal or transfer, including the licensing justices.

14 Compensation on refusal to renew or transfer an old on-licence

- (1) If the compensation authority refuse to renew or transfer an old on-licence, they shall pay as compensation to the persons interested in the licensed premises the difference between the value of those premises as licensed and their value as unlicensed.
- (2) For the purposes of subsection (1) of this section the licence shall be assumed to be subject to the same conditions of renewal as were applicable immediately before 15th August 1904; and there shall be assumed to be included in the value of the licensed premises the amount of the depreciation of the trade fixtures arising by reason of the refusal to renew or transfer the licence.
- (3) The amount to be paid as compensation shall, in default of agreement between the several persons appearing to the compensation authority to be interested in the licensed premises and the authority, be determined by the Commissioners of Inland Revenue in the same manner, and subject to the same appeal under section 10 of the Finance Act 1894 to the High Court, as on the valuation of an estate for the purpose of estate duty; and the amount of compensation shall be divided among the persons interested in the licensed premises, including the holder of the licence, in such shares as the compensation authority may determine.
- (4) For the purposes of subsection (3) of this section regard shall be had not only to the legal interest of the holder of the licence in the premises or trade fixtures, but also to his conduct and the length of time that he has held the licence; and, notwithstanding any agreement to the contrary, a tenant who is the holder of a justices' licence shall not receive less than he would be entitled to as tenant from year to year of the licensed premises.
- (5) The compensation authority may refer to the county court any question arising on the division of the compensation that the authority consider can be more conveniently determined by that court.
- (6) Any costs incurred by the Commissioners of Inland Revenue on an appeal from their decision to the High Court under this section shall be paid out of the amount of the compensation unless the High Court orders those costs to be paid by some other party to the appeal.

15 Special removals of old on-licences

- (1) Where application is made for the special removal of an old on-licence from any premises in a licensing district to premises in the same district on the ground—
 - (a) that the premises for which the licence was granted are or are about to be pulled down or occupied under any Act for the improvement of highways, or for any other public purpose; or
 - (b) that the premises for which the licence was granted have been rendered unfit for use for the business carried on there under the licence by fire, tempest or other unforeseen and unavoidable calamity;the provisions of sections 12 to 14 of this Act shall apply as they apply to a renewal, subject to the restrictions on removals imposed by Parts VI and VII of this Act and subject to subsections (3) and (4) of this section.
- (2) A removal to which those provisions apply as aforesaid is in this Act referred to as a special removal.
- (3) In the application of those provisions to the special removal of a licence section 12 of this Act shall have effect as if the words " that the premises to be licensed " were inserted in subsection (4)(b) before the words " are structurally deficient or structurally unsuitable ".
- (4) Where the occasion for an application for a special removal is the pulling down of the licensed premises or those premises having been rendered unfit by fire, tempest or other calamity, any compensation for the refusal of the grant shall be determined as if the premises were in the same condition as at the last renewal or transfer of the licence.
- (5) Notwithstanding anything in section 6 of this Act, no provisional grant shall be made of a special removal.
- (6) Section 8(4) of this Act shall apply in relation to applications for special removals as it applies in relation to applications for transfers.

16 Compensation authorities

- (1) The following shall be the compensation authority for the purposes of this Act, that is to say.—
 - (a) for a county borough, it shall be a committee of the borough justices, which shall be known as the borough compensation committee;
 - (b) for the City of London, it shall be a committee of the justices for the City ; and
 - (c) for any other licensing district, it shall be a committee, which shall be known as the county compensation committee, of the court of quarter sessions for the county which is or includes that licensing district;and compensation committees shall be constituted and their procedure regulated in accordance with Schedule 3 to this Act.
- (2) A compensation authority shall in each year make such returns to the Secretary of State as he may require about their proceedings as compensation authority and the proceedings of licensing justices in referring to the compensation authority the question of the renewal, transfer or special removal of old on-licences.

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17 Compensation fund

- (1) A compensation authority shall in each year impose charges to be payable in respect of—
- (a) the renewal of old on-licences for premises in their area; and
 - (b) the transfer of such licences and the removal of old on-licences to premises in their area, in any case where the duration of the licence is extended by the transfer or removal;
- except in a year in which they certify to the Secretary of State that it is unnecessary to do so.
- (2) In imposing those charges the compensation authority shall fix a sum not exceeding one hundred pounds as the maximum amount of such a charge; and the charge payable in respect of any licence shall be an amount which bears to the sum so fixed the same proportion as the charge in respect of a renewal of that licence in 1958 bore (or, as the case may be, would, if payable, have borne) to the maximum charge which was or might have been imposed in that year.
- (3) Charges payable under this section on the renewal, transfer or removal of a licence shall be levied and paid together with, and as part of the duties on, the corresponding excise licence; and the Commissioners shall keep a separate account of the amount produced by the charges in the area of any compensation authority and pay the amount over in each year to the authority in accordance with rules made by the Treasury.
- (4) The holder of a licence paying a charge under this section may, notwithstanding any agreement to the contrary, make a deduction from rent equal either to the percentage of the charge specified in Schedule 4 to this Act or to one half of the rent, whichever is the less; and a person receiving rent from which a deduction has been made under this subsection may make the same deduction from rent payable by him.
- (5) The compensation authority shall pay the moneys received by them on account of charges under this section, or received by them from any other source for the payment of compensation under this Act, into a separate account under their management, in this Act referred to as the " compensation fund ".
- (6) The compensation authority shall pay out of the compensation fund—
- (a) the expenses of the authority in paying compensation under this Act or incurred otherwise by them in the exercise of their functions as compensation authority;
 - (b) such expenses of the licensing justices incurred in referring to the authority any question of the renewal, transfer or special removal of old on-licences as the compensation authority may allow;
 - (c) such expenses of the licensing justices incurred in the grant of new justices' on-licences as the compensation authority may allow;
- and the compensation authority in the exercise of their powers shall have regard to the funds available for the purpose.
- (7) The compensation authority may, with the consent of the Secretary of State, borrow on the security of the compensation fund for the purpose of paying any compensation under this Act.

18 Provisions applicable to purchase under certain statutory powers of premises to which old on-licence is attached

- (1) Subject to section 125(1) of this Act, where land purchased under Part III of the Housing Act 1957, Part IV of the Town and Country Planning Act 1947, or Part V of the Town and Country Planning Act 1962 comprises premises for which an old on-licence is in force, the following provisions shall have effect:—
 - (a) a purchasing authority, before purchasing the premises, may undertake that if renewal of the licence is refused they will pay to the compensation authority towards the compensation payable on the refusal under this Part of this Act such contribution as may be specified in the undertaking; and any sum payable by the purchasing authority in pursuance of such an undertaking shall be treated as part of their expenses in purchasing the land;
 - (b) if, after purchasing or contracting to purchase the premises, the purchasing authority intimate to the licensing justices that they are willing to surrender the licence, the licensing justices may refer the matter to the compensation authority; and that authority, on being satisfied that they might properly under section 13 of this Act have refused to renew the licence, if not surrendered, shall contribute out of the compensation fund towards the compensation paid by the purchasing authority for the purchase of the premises a sum not exceeding the compensation that would have been payable under this Part of this Act on refusal to renew the licence.
- (2) In this section " purchasing authority" means a local authority purchasing under Part III of the Housing Act 1957 or a Minister, local authority or any statutory undertakers purchasing under Part V of the Town and Country Planning Act 1962 and, in subsection (1)(b), includes a Minister, local authority or statutory undertakers having purchased under Part IV of the Town and Country Planning Act 1947.

Control of licensing justices over structure of licensed premises

19 Power to require structural alterations on renewal of on-licence

- (1) On an application for the renewal of a justices' on-licence the licensing justices may require a plan of the premises to be produced to them and deposited with their clerk, and on renewing such a licence the licensing justices may order that, within a time fixed by the order, such structural alterations shall be made in the part of the premises where intoxicating liquor is sold or consumed as they think reasonably necessary to secure the proper conduct of the business.
- (2) The clerk to the licensing justices shall serve on the registered owner of the premises notice of any order made under this section.
- (3) Where an order under this section is complied with, licensing justices shall not make a further order under this section within the five years following the first-mentioned order.
- (4) If the holder of the licence makes default in complying with an order under this section he shall be guilty of an offence ; and he shall be guilty of a further offence for every day on which the default continues after the expiration of the time fixed by the order.
- (5) A person guilty of an offence under this section shall be liable to a fine not exceeding twenty shillings.

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

- (6) The preceding provisions of this section shall apply in relation to a transfer whereby the duration of the licence is extended as they apply in relation to a renewal.

20 Consent required for certain alterations to on-licensed premises

- (1) No alteration shall be made to premises for which a justices' on-licence is in force if the alteration—
- (a) gives increased facilities for drinking in a public or common part of the premises; or
 - (b) conceals from observation a public or common part of the premises used for drinking ; or
 - (c) affects the communication between the public part of the premises where intoxicating liquor is sold and the remainder of the premises or any street or other public way;
- unless the licensing justices have consented to the alteration or the alteration is required by order of some lawful authority.
- (2) Before considering an application for their consent under this section, the licensing justices may require plans of the proposed alteration to be deposited with their clerk at such time as they may determine.
- (3) If subsection (1) of this section is contravened, a magistrates' court may by order on complaint 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.
- (4) The clerk of the court that makes an order under subsection (3) of this section shall, if he is not the clerk to the licensing justices, serve notice of the order on the clerk to the licensing justices; and the clerk to the licensing justices shall serve notice of the order on the registered owner of the premises.
- (5) A person aggrieved by an order under subsection (3) of this section may appeal to a court of quarter sessions.
- (6) In this section—
- (a) " public part " means a part open to customers who are not residents or guests of residents; and
 - (b) " common part" means a part open generally to all residents or to a particular class of them.

Appeals

21 Appeals

- (1) Subject to subsection (2) of this section, any person aggrieved by any of the following decisions of licensing justices, that is to say—
- (a) a decision granting or refusing to grant a new justices' licence or an ordinary removal of a justices' licence ;
 - (b) a decision refusing the renewal, transfer or special removal of ,a justices' licence ;

- (c) a refusal to declare a provisional grant final or to affirm a provisional grant or to give consent, on the application of the holder of a provisional licence, to a modification of plans;
 - (d) the making of an order under section 19 of this Act;
 - (e) the refusal of a consent required under section 20 of this Act; or
 - (f) any decision as to the conditions of a justices' on-licence ;
- may appeal to quarter sessions against that decision.
- (2) A person may not appeal against the grant of a justices' licence unless he has appeared before the licensing justices and opposed the grant; and no person may appeal against a refusal to attach conditions to a licence or to vary or revoke conditions previously attached, except the person (if any) whose application or request is required for the justices to have jurisdiction to attach or to vary or revoke the conditions.
- (3) The quarter sessions having jurisdiction to hear an appeal under subsection (1) of this section shall be the quarter sessions for the county in which the premises (that is to say, in the case of a removal, the premises to which the licence is to be removed) are situated or, if they are situated in a county borough, the quarter sessions for the county in which the borough is deemed to be situated; except that an appeal under paragraph (d) or paragraph (e) of that subsection may, if the premises are situated in a borough having a separate court of quarter sessions, be made either to the quarter sessions for the said county or to the quarter sessions for the borough.

In this subsection " county " includes the City of London.

22 Procedural provisions as to appeals

- (1) An appeal under section 21 of this Act shall be commenced by notice of appeal given by the appellant to the clerk to the licensing justices within fourteen days after the decision appealed against.
- (2) On an appeal against the grant of a justices' licence the applicant for the licence and not the licensing justices shall be respondent, and notice of appeal must be given to him as well as to the clerk to the licensing justices.
- (3) On an appeal against a refusal to grant a justices' licence, or against a decision as to conditions given on the grant of a justices' licence, any person who appeared before the licensing justices and opposed the grant shall be respondent in addition to the licensing justices; but no order for costs shall be made by virtue of this subsection against any person unless he appears at the hearing of the appeal and opposes the appeal.
- (4) On any appeal under section 21 of this Act the clerk to the licensing justices shall transmit the notice of appeal to the clerk of the peace, and the appeal shall be entered and notice thereof given by the clerk of the peace, as in a case where the justices' clerk is required to transmit the notice of an appeal from a magistrates' court; and section 85(2) of the Magistrates' Courts Act 1952 shall apply accordingly with respect to the abandonment of the appeal.
- (5) Where a person appears before licensing justices and opposes the grant of a justices' licence, his name and address shall be recorded by the clerk to the licensing justices and, in the event of an appeal against a refusal of the grant or against a decision as to conditions given on the grant, shall be transmitted to the clerk of the peace with the notice of appeal.

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

- (6) Where the same application to licensing justices gives rise to more than one appeal to quarter sessions, quarter sessions may give such directions as they think fit for the appeals to be heard together or separately, and where two or more appeals are heard together, quarter sessions may deal with the costs of the appeals, so far as those costs are in their discretion, as if they were a single appeal.
- (7) A justice shall not act in the hearing or determination of an appeal under section 21 of this Act from any decision in which he took part.

23 Powers of quarter sessions on appeals

- (1) On an appeal under section 21 of this Act quarter sessions may by their order confirm or reverse the decision appealed against and make any grant in the same way as the licensing justices might have done or, as the case may be, make any order which the licensing justices might have made under section 19 of this Act.
- (2) Where on any such appeal quarter sessions grant or confirm the grant of a licence or where such an appeal is against a decision as to the conditions of a licence, quarter sessions may by their order make any provision as to the attachment of conditions which the licensing justices might have made.
- (3) The judgment of quarter sessions on any such appeal shall be final.

24 Award of costs against appellant

- (1) Subject to subsection (2) of this section, on determining an appeal under section 21 of this Act the court of quarter sessions may make such order for costs as it thinks fit.
- (2) If such an appeal, other than an appeal against the grant of a justices' licence, is dismissed the court shall order the appellant to pay to the justices against whose decision he has appealed, or such person as those justices may appoint, such sum by way of costs as is in the opinion of the court sufficient to indemnify the justices from all costs and charges whatever to which they have been put in consequence of his having served notice of appeal.
- (3) Where a court of quarter sessions is satisfied that the appellant, after giving notice of appeal to the court, has failed to prosecute the appeal, the court shall make an order under the preceding subsection as if the appeal had been dismissed.
- (4) Costs ordered to be paid under this section shall be recoverable summarily as a civil debt.

25 Award of costs of licensing justices out of local funds

- (1) Where—
 - (a) an appeal under section 21 of this Act, other than an appeal against the grant of a justices' licence, is allowed, or
 - (b) quarter sessions have, under section 24(2) of this Act, awarded costs against the appellant and are satisfied that the licensing justices cannot recover those costs from him,

the court shall order payment out of local funds of such sums as appear to the court sufficient to indemnify the licensing justices from all costs and charges whatever to which they have been put in consequence of the appellant's notice of appeal.

- (2) Costs payable out of local funds under this section shall be paid—
 - (a) if the licensing district for which the licensing justices acted is a borough having a separate court of quarter sessions, out of the general rate fund of the borough; and
 - (b) in any other case, out of the county fund of the county in which the licensing district is situated.
- (3) Sections 8(1) and 11(1) of the Costs in Criminal Cases Act 1952 (which make provision for the payment out of local funds of costs ordered to be paid under that Act) shall apply to costs ordered to be paid under this section as if any reference therein to a county borough were a reference to a borough having a separate court of quarter sessions.
- (4) An order of a court of quarter sessions under this section may be made either at the sessions at which the appeal is heard, or at which it would have been heard if the appeal had been prosecuted or at the next following sessions; and the costs may be taxed either in or out of sessions.

Duration of Licences

26 Duration of licences

- (1) Subject to the following provisions of this section and to sections 27, 133(3) and 142(3) of this Act, a justices' licence—
 - (a) shall be granted to have effect from the time of the grant until the end of the licensing year or, if it is granted in the last three months of a licensing year, until the end of the following licensing year; but
 - (b) shall be superseded on the coming into force of a licence granted by way of renewal, transfer or removal of it.
- (2) A justices' licence granted by way of transfer or removal may be granted to have effect from a time specified in the grant (not being earlier, where it is granted before the coming into force of the licence transferred or removed, than the time of the coming into force of that licence).
- (3) In the case of a licence granted provisionally, subsection (1) of this section shall apply as if the licence were granted at the time when it is declared final, but a transfer of such a licence may be granted so as to have effect for the purpose of superseding that licence from a date before it is declared final, and, if so granted, shall as regards its duration and coming into force be subject to the same provisions as if it were the licence transferred.
- (4) Where on the renewal or transfer of a licence the licensing justices attach new conditions (whether in addition to or in substitution for any conditions previously attached) the justices may, on such terms as they think just, suspend the operation of those conditions in whole or in part pending the determination of any appeal against the decision to attach them or pending the consideration of the question of bringing such an appeal.
- (5) In this section " licensing year " means the twelve months beginning with 5th April in any year.

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

27 Effect on duration of opposition to grant of licence

- (1) The provisions of this section shall have effect where on an application to licensing justices for the grant of a new justices' licence, or for the grant of a licence by way of ordinary removal of a justices' licence, a person appears before the licensing justices and opposes the grant, but the justices grant the licence.
- (2) Until the expiry of the time for bringing an appeal against the grant and, if such an appeal is brought, until the appeal has been disposed of.—
 - (a) the licence granted shall not come into force ;
 - (b) where the grant is by way of ordinary removal and the licence which it is sought to remove is in force at the time of the grant, the licence shall not expire unless the licensing justices otherwise direct.
- (3) If on appeal the grant is confirmed or if the appeal is abandoned, the time when the appeal is disposed of shall be substituted for the time of the grant for the purpose of determining the period for which the licence is to have effect, and quarter sessions shall (if need be) amend the licence accordingly.
- (4) If there is an appeal against the grant of an ordinary removal, and the licence which it is sought to remove is in force on the day when notice of appeal is given to the applicant for the removal, then—
 - (a) he may within seven days of that day give notice in writing to the clerk of the peace of his desire that the expiry of that licence shall be postponed for a specified period (not exceeding three weeks) after the appeal is disposed of, and if he does so, subsection (2) of this section shall apply until the expiry of that period;
 - (b) whether or not he gives such a notice, quarter sessions, if they confirm the grant and if he so requests, may by their order direct that that subsection shall continue to apply for such further period as they think fit;
 - (c) if quarter sessions refuse to confirm the grant, and at the time of their decision it is too late to renew that licence at the general annual licensing meeting at which it was due for renewal, then—
 - (i) the holder of the licence shall be treated as having had reasonable cause for not applying for renewal at that meeting, and the licence may be renewed at transfer sessions accordingly; and
 - (ii) if notice has been given under paragraph (a) of this subsection, and within the period for which the licence is continued in force by that paragraph notice is given to the clerk to the licensing justices of an application for the renewal of the licence at the first licensing sessions held not less than twenty-one days after the notice is given, the licence shall not expire until the application is disposed of or those sessions end without its being made.

Clerk to licensing justices and fees

28 Clerk to licensing justices

- (1) The clerk to the justices acting for a petty sessions area shall be clerk to the licensing justices for the licensing district consisting of that area.

- (2) Section 118 (2) of the Magistrates' Courts Act 1952 (which provides for the case where there is more than one clerk to the justices for a petty sessions area) shall apply for the purposes of subsection (1) of this section as it applies for the purposes of that Act.
- (3) A clerk to licensing justices shall not himself or by his partner or clerk act as solicitor to, or agent for, any person—
 - (a) at any licensing sessions ; or
 - (b) before justices of the peace in proceedings under this Act, the Licensing Act 1872, or the Licensing Act 1902;and any person who contravenes this subsection shall be liable to a fine not exceeding one hundred pounds.
- (4) Where the clerk to licensing justices for any district was appointed before 1st April 1953, nothing in the preceding subsection shall prohibit him from acting at a licensing sessions for another licensing district' or before justices acting for a petty sessions area other than that licensing district, or from preparing notices or forms.

29 Fees chargeable in licensing matters

- (1) Subject to subsection (3) of this section, there may be charged by justices' clerks in respect of matters arising under this Act such fees as may be provided for by order of the Secretary of State and no others.
- (2) This section shall apply to the fees chargeable in any stipendiary magistrate's court, arid to those chargeable by a justices' clerk acting as clerk to licensing justices or in any other capacity, as it applies to fees chargeable by a justices' clerk acting as such.
- (3) This section shall not affect the court fees chargeable (under the Magistrates' Courts Act, 1952 or otherwise) in connection with prosecutions or with the enforcement of orders of a magistrates' court, nor the fees chargeable by a justices' clerk acting as secretary to a licensing planning committee.
- (4) An order under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Register of Licences

30 Register of licences

- (1) The clerk to the licensing justices for a licensing district shall keep a register of licences in such form as the justices may prescribe, containing particulars of all justices' licences granted in the district, the premises for which they were granted, the names of the owners of those premises, and the names of the holders of the licences.
- (2) If in any licensing district there are more persons than one holding the office of clerk to the licensing justices, the licensing justices shall determine which of those persons shall keep the register of licences.
- (3) Licensing justices may cause a register of licences to be divided into parts and assign a part of the register to any part of their licensing district.
- (4) A register of licences shall be received in evidence of the matters required by this or any other Act to be entered in it, and any document purporting to be certified by a

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clerk to licensing justices to be a true copy of an entry in the register of licences kept by him shall be received in evidence of any such matters contained in the entry.

31 Convictions, forfeitures and disqualifications to be entered in register

- (1) The clerk to the licensing justices shall enter in the register of licences, in such form as may be prescribed by the Secretary of State, notice of any conviction of the holder of a justices' licence of an offence committed by him as such, including an offence against the provisions of any Act relating to the adulteration of drink; and the clerk of the court before whom the holder of a justices' licence is so convicted shall, if he is not the clerk to the licensing justices, forthwith send notice of the conviction to that clerk.
- (2) The clerk to the licensing justices shall enter in the register of licences any forfeiture of a justices' licence granted in the licensing district, any disqualification of premises under any enactment and any other matter relating to the licences in the register.
- (3) The provisions of this and the preceding section shall be in addition to those of any other enactment requiring entries to be made in the register of licences.

32 Registration of owner, etc.

- (1) Every person applying for a new justices' licence, or the renewal of a justices' licence, shall state the name of the person for the time being entitled to receive, either on his own account or as mortgagee or other incumbrancer in possession, the rack-rent of the premises for which the licence is granted; and the clerk to the licensing justices shall enter that name in the register of licences as the name of an owner of the premises, and endorse the name on the licence.
- (2) The clerk to the licensing justices shall also, on the application of any person whose name is not entered under the preceding subsection, and who has an estate or interest in the premises, whether as owner, lessee or mortgagee, prior or paramount to that of the occupier, enter that person's name in the register of licences as an owner of the premises.

Where any such estate or interest is vested in two or more persons jointly, one only of those persons shall be registered as representing that estate or interest.

- (3) Any reference in this Act to the registered owner of premises shall be construed as a reference to any person whose name is for the time being entered in the register of licences under this section.

33 Notice of conviction of licence holder to be given to registered owner

- (1) Where the conviction of the holder of a justices' licence is entered in the register of licences under section 31(1) of this Act, the clerk to the licensing justices shall serve notice of the conviction on the registered owner of the premises.
- (2) A notice served under subsection (1) of this section shall, if served by post, be served by registered post or recorded delivery service; and for the purposes of section 26 of the Interpretation Act 1889 a letter containing the notice shall be deemed to be properly addressed if it is addressed to any place that the owner has specified to the clerk as his address, or, if the owner has not specified any place, to any place that the clerk believes to be the owner's address.

- (3) Where the conviction of the holder of a justices' licence involves the disqualification of the licensed premises, the court before which the conviction takes place shall cause notice of the disqualification to be served on any registered owner of the premises who is not the occupier.

34 Inspection of register

- (1) The following persons shall be entitled at any reasonable time to inspect the register of licences for a licensing district on payment of the fee chargeable, that is to say—
- (a) any person rated in respect of a hereditament in the district;
 - (b) any owner of licensed premises situated in the district;
 - (c) any holder of a justices' licence granted in the district.
- (2) Any constable or any officer of Customs and Excise shall, without payment, be entitled at any reasonable time to inspect the register of licences.
- (3) If the clerk to the licensing justices or any other person refuses inspection of the register of licences under this section or obstructs any person attempting to inspect the register under this section or receives or demands any unauthorised charge for permitting the register to be inspected under this section, he shall be liable to a fine not exceeding five pounds.

35 Duty of licensing justices to have regard to entries in register

On an application for the grant of a justices' licence the licensing justices shall have regard to any entries in the register of licences relating to the person by whom, or the premises for which, the licence is to be held.

Miscellaneous

36 Proof of justices' licence and provisions as to forgery thereof

- (1) Any document purporting to be a justices' licence and—
- (a) to be signed by the majority of the justices present when the licence was granted, or
 - (b) to be sealed or stamped with an official seal or stamp affixed or impressed under the authority of the licensing justices and to contain a certificate signed by the clerk to the licensing justices verifying that authority,
- shall be received in evidence.
- (2) Any document purporting to be a copy of a justices' licence certified under the hand of the clerk to the licensing justices by whom the licence was granted to be a true copy shall be received in evidence—
- (a) by licensing justices on an application for the renewal, transfer or removal of the licence, and
 - (b) by justices of the peace on an application for a protection order,
- if the justices are satisfied by evidence that the original has been lost or unlawfully withheld.

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- (3) If any person forges a justices' licence or tenders a justices' licence knowing it to have been forged, he shall be liable to imprisonment for a term not exceeding six months or a fine not exceeding twenty pounds.
- (4) Any excise licence granted in pursuance of a forged justices' licence shall be void.

37 Power to extend existing on-licence to additional types of liquor

- (1) Subject to sections 112(4) and 123(3) of this Act, on an application by the holder of a justices' on-licence, or on the renewal or transfer of a justices' on-licence and at the request of the person applying for the renewal or transfer, the licensing justices, if satisfied that the application or request is made with the consent of the registered owner, shall vary the licence so as to add to the descriptions of intoxicating liquor authorised to be sold on the licensed premises.
- (2) On the variation of a licence under this section the licensing justices shall have the like power to attach conditions as they would have if they were granting the licence (with the variation) as a new justices' on-licence, and any conditions attached may be in addition to or in substitution for any conditions previously attached to the licence.

38 Rules

The Secretary of State may make rules for carrying into effect the provisions of this Act about the renewal, transfer or removal of old on-licences and the payment of compensation for not renewing, transferring or removing such licences and about the attachment of conditions to new justices' on-licences, and may by those rules among other things—

- (a) provide for the provisional renewal, transfer or removal of old on-licences which are referred by the licensing justices to the compensation authority under section 13 of this Act, and for consultation between the compensation authority and the licensing justices on the reports of the justices thereon, and for the time and manner of the consideration of those reports and for the time and manner of the payment of compensation, and
- (b) provide for the manner in which the compensation authority may borrow on the security of the compensation fund, and
- (c) provide for the enforcement of any security given for money borrowed by the compensation authority, and for the time, not exceeding fifteen years, within which money borrowed is to be repaid, and
- (d) regulate the management and application of the compensation fund and the audit of the accounts of the compensation authority, and
- (e) provide for the constitution, where requisite, of committees of quarter sessions as standing committees, and for the employment of officers for the purposes of the provisions of this Act authorising the reference to the compensation authority of the question of the renewal, transfer or removal of old on-licences and the payment of compensation on refusal to renew, transfer or remove such licences, and authorising the attachment of conditions to new justices' licences, and
- (f) regulate the procedure of the compensation authority on the consideration of the reports of licensing justices under the said section 13 and on any hearing under this Act for the purpose of determining whether to renew, transfer or

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- remove an old on-licence or the amount or division of the compensation payable on refusal to renew, transfer or remove, and
- (g) provide for the authentication of any documents on behalf of compensation authorities.