



# Licensing (Scotland) Act 1976

## 1976 CHAPTER 66

### PART V

#### THE PERMITTED HOURS

#### **53 Permitted hours in licensed premises and registered clubs**

- (1) Subject to the provisions of this Act, the permitted hours in licensed premises, licensed canteens and registered clubs shall be those set out in the following provisions of this section.
- (2) The permitted hours for premises in respect of which a public house licence or a refreshment licence is in force shall be the period between eleven in the morning and half-past two in the afternoon and the period between five and eleven in the evening, except for Sundays when the permitted hours shall be the period between half-past twelve and half-past two in the afternoon and the period between half-past six and eleven in the evening but only in the case of premises in respect of which an application for Sunday opening has been made to and granted by a licensing board in accordance with the provisions of Schedule 4 to this Act, which shall have effect.
- (3) The permitted hours for premises in respect of which a hotel licence, a restricted hotel licence, a restaurant licence, an entertainment licence or a licence under Part III of this Act is in force or which are a registered club shall, on weekdays, be the period between eleven in the morning and half-past two in the afternoon and the period between five and eleven in the evening and, on Sundays, be the period between half-past twelve and half-past two in the afternoon and the period between half-past six and eleven in the evening.
- (4) Nothing in this section shall authorise the sale or supply of alcoholic liquor for consumption off the premises, being premises in respect of which a refreshment licence, an entertainment licence, a restricted hotel licence, a restaurant licence or a licence under Part III of this Act is in force.

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**54 Prohibition of sale and consumption of alcoholic liquor except during permitted hours**

- (1) Subject to the provisions of this Act, no person shall, except during the permitted hours—
  - (a) sell or supply to any person in any licensed premises, or licensed canteen, or in the premises of a registered club any alcoholic liquor to be consumed either on or off the premises, or
  - (b) consume in, or take from, any such premises any alcoholic liquor.
- (2) Subsection (1) above shall not apply to off-sale premises or to the off-sale part of premises (within the meaning of section 119 of this Act) in respect of which a public house licence or hotel licence is held.
- (3) Nothing in subsection (1) above shall prohibit or restrict—
  - (a) the consumption of alcoholic liquor in any premises at any time within fifteen minutes after the conclusion of the permitted hours in the afternoon or evening, as the case may be, if such liquor was supplied in those premises during the permitted hours ;
  - (b) the taking of alcoholic liquor from any premises within fifteen minutes after the conclusion of the permitted hours in the afternoon or evening, as the case may be, if such liquor was supplied in those premises during the permitted hours and was not supplied or taken away in an open vessel;
  - (c) the sale or supply to, or consumption by, any person of alcoholic liquor in any premises where he is residing;
  - (d) the taking of alcoholic liquor from any premises by a person residing there;
  - (e) the supply of alcoholic liquor in any premises, for consumption on those premises, to any private friends of a person residing there who are bona fide entertained by, and at the expense of, that person, or the consumption by such friends of alcoholic liquor so supplied to them;
  - (f) the ordering of alcoholic liquor to be consumed off the premises or the despatch by the vendor of liquor so ordered;
  - (g) the supply of alcoholic liquor for consumption on licensed premises to any private friends of the holder of the licence bona fide entertained by him at his own expense, or the consumption of alcoholic liquor by persons so supplied;
  - (h) the consumption of alcoholic liquor at a meal by any person at any time within half an hour after the conclusion of the permitted hours in the afternoon or evening, as the case may be, if the liquor was supplied during the permitted hours and served at the same time as the meal and for consumption at the meal;
  - (i) the sale of alcoholic liquor to a trader for the purposes of his trade, or to a registered club for the purposes of the club; or
  - (j) the sale or supply of alcoholic liquor to any canteen in which the sale or supply of alcoholic liquor is carried on under the authority of the Secretary of State or to any authorised mess of members of Her Majesty's naval, military or air forces.
- (4) If any person contravenes this section he shall be guilty of an offence.
- (5) Nothing in this Act shall be taken to require any premises to be open for the sale or supply of alcoholic liquor during the permitted hours.

## **55 Additional provisions regarding restricted hotel and restaurant licences**

On granting or transferring a restricted hotel licence or a restaurant licence in respect of any premises, a licensing board shall, if as regards the use of the premises for the provision of the customary main meals it appears to the board that it is only for the customary main meal at midday or only for the customary main meal in the evening that the premises fall within paragraph (a)(ii) of the restricted hotel licence or paragraph (a)(ii) of the restaurant licence as set out in Schedule 1 to this Act, insert in the licence a condition that there shall be no permitted hours in the evening, or that there shall be permitted hours in the premises only in the evening, as the case requires.

## **56 Alternative permitted hours in certain athletic clubs during winter**

- (1) A registered club may apply to the sheriff for any one of the following orders—
- (a) an order providing that during the winter period the permitted hours in the club on weekdays shall not be those set out in section 53(3) of this Act, but shall instead be the period between eleven in the morning and two in the afternoon and the period between four and half-past ten in the evening or alternatively be the said periods on weekdays other than Saturday, and on Saturday be the period between one in the afternoon and half-past ten in the evening ; or
  - (b) an order providing that during the winter period the permitted hours in the club on Sundays shall not be those set out in the said section 53(3), but shall instead be the period between half-past twelve and two in the afternoon and the period between four and nine in the evening; or
  - (c) an order which contains both the aforesaid provisions ;
- and the sheriff shall, if in his opinion the conditions set out in subsection (2) below are satisfied, make the order applied for.
- (2) The conditions referred to in subsection (1) above are—
- (a) that the premises of the club are structurally adapted and bona fide used, or intended to be used, wholly or mainly for the purpose of providing facilities in connection with the carrying on by members of the club and their guests of athletic sports or athletic games ;
  - (b) that one or more of such sports or games is or are usually carried on out of doors and, when so carried on, can (unless artificial lighting is used) only be carried on during hours of daylight;
  - (c) that the said premises are regularly used, or are intended regularly to be used, during the winter period, for providing facilities in connection with the carrying on by members of the club and their guests, during the hours of daylight, of such a sport or game as is mentioned in paragraph (b) above ;
  - (d) that having regard to the time at which the said sport or game is usually carried on by members of the club and their guests, the permitted hours set out in section 53(3) of this Act are not suitable for the supply of alcoholic liquor in the said premises to persons who participate in that sport or game.
- (3) On an application for an order being made under subsection (1) above by any club, the sheriff clerk shall forthwith give notice thereof to the chief constable who may, within 21 days of the date of the receipt by him of such notice, lodge with the sheriff clerk objections to the making of such order on the ground that one or more of the conditions set out in subsection (2) above has not or have not been satisfied in relation to the club, and shall, on lodging any such objections, send a copy thereof to the secretary of the club; and if any such objections are lodged and not withdrawn, the sheriff shall, as

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soon as may be, hear parties upon the application and objections and may order such enquiry as he thinks fit, and shall thereafter make or refuse to make the order applied for, and may award expenses against the unsuccessful party.

- (4) An order made under this section by the sheriff in respect of any club shall expire on the date on which the certificate of registration which is in force in respect of the club expires.
- (5) In this section, the expression " the winter period " means the period beginning with 1st October and ending with 31st March.

## **57 Extension of permitted hours in the afternoon in certain licensed premises and clubs**

- (1) This section shall apply to any premises for which a licence (other than an off-sale licence) is held or to the premises of a registered club—
  - (a) if the holder of the licence or, as the case may be, the club gives notice of the application of the section to the premises in accordance with subsection (6) below, and
  - (b) as from such date as may be specified in the said notice:

Provided that, in the case of premises for which a public house or a hotel licence is held or the premises of a club, the licence-holder or the club, as the case may be, shall not give notice of application as aforesaid, and this section shall not apply to such premises, unless the licensing board for the area within which the premises are situated is satisfied that the premises are structurally adapted and bona fide used, or intended to be used, for the purpose of habitually providing the customary main meal at midday for the accommodation of persons frequenting the premises.

- (2) While this section applies to any premises, the effect shall be that, for the purposes mentioned in subsection (3) below, the permitted hours in those premises in the afternoon shall be increased by the addition of one and a half hours at the end thereof.
- (3) The purposes referred to in subsection (2) above are—
  - (a) the sale or supply to persons taking table meals in the premises of alcoholic liquor supplied in a part of the premises usually set apart for the service of such persons, and supplied for consumption by such a person in that part of the premises as an ancillary to his meal; and
  - (b) the consumption of alcoholic liquor so supplied.
- (4) While this section applies to any premises, then for purposes other than those mentioned in subsection (3) above, or in parts of the premises other than the part so mentioned, the permitted hours shall be the same as if this section did not apply to the premises.
- (5) This section shall cease to apply to any premises on such day as may be specified in the notice, if the holder of the licence or the club, as the case may be, gives notice of the disapplication of the section from the premises in accordance with subsection (6) below:

Provided that this section shall cease to apply to premises for which a public house or a hotel licence is held, or to the premises of a club, at any time on the licensing board ceasing to be satisfied as mentioned in the proviso to subsection (1) above.

- (6) A notice of the application of this section to, or of the disapplication of this section from, any premises—
- (a) shall be in writing ;
  - (b) shall, in the case of a club, be given by the secretary of the club on its behalf;
  - (c) shall, in the case of a notice of application, specify the date from which the section is to apply to the premises and, in the case of a notice of disapplication, state that the section is to cease to apply to the premises on the date specified in the notice ;
  - (d) shall be served on the chief constable not later than 14 days before the date specified as aforesaid.
- (7) The secretary of any club to the premises of which this section applies shall notify the licensing board for the area within which such premises are situated of any reconstruction or extension of, or alteration in, the premises which affects the facilities available in the premises for the provision of the customary main meal at midday, and if the secretary of any club contravenes this subsection he shall be guilty of an offence.
- (8) The holder of the licence for premises to which this section applies shall keep posted in some conspicuous place in the premises a notice stating that this section applies thereto and setting out the effect of its application, and if any person contravenes this subsection he shall be guilty of an offence.

## **58 Extension of permitted hours in the evening in certain licensed premises and clubs**

- (1) This section shall apply to any premises for which a licence (other than an off-sale licence) is held or to the premises of a registered club—
- (a) if the holder of the licence or, as the case may be, the club gives notice of the application of the section to the premises in accordance with subsection (6) below, and
  - (b) as from such date as may be specified in the said notice:

Provided that, in the case of premises for which a public house or a hotel licence is held or the premises of a club, the licence-holder or the club, as the case may be, shall not give notice of application as aforesaid and this section shall not apply to such premises, unless the licensing board for the area within which the premises are situated is satisfied that the premises are structurally adapted and bona fide used, or intended to be used, for the purpose of habitually providing, for the accommodation of persons frequenting the premises, substantial refreshment to which the sale and supply of alcoholic liquor is ancillary.

- (2) While this section applies to any premises, the effect shall be that for the purposes mentioned in subsection (3) below the permitted hours in those premises in the evening shall be increased by the addition of two hours at the end thereof.
- (3) The purposes referred to in subsection (2) above are—
- (a) the sale or supply to persons taking table meals in the premises of alcoholic liquor supplied in a part of the premises usually set apart for the service of such persons, and supplied for consumption by such a person in that part of the premises as an ancillary to his meal; and
  - (b) the consumption of alcoholic liquor so supplied.

(4) While this section applies to any premises, then for purposes other than those mentioned in subsection (3) above, or in parts of the premises other than the part so mentioned, the permitted hours shall be the same as if this section did not apply to the premises.

(5) This section shall cease to apply to any premises on such day as may be specified in the notice if the holder of the licence or the club, as the case may be, gives notice of the disapplication of the section from the premises in accordance with subsection (6) below:

Provided that this section shall cease to apply to premises for which a public house or a hotel licence is held, or to the premises of a club, at any time on the licensing board ceasing to be satisfied as mentioned in the proviso to subsection (1) above.

(6) A notice of the application of this section to, or of the disapplication of this section from, any premises—

- (a) shall be in writing;
- (b) shall, in the case of a club, be given by the secretary of the club on its behalf ;
- (c) shall, in the case of a notice of application, specify the date from which the section is to apply to the premises and, in the case of a notice of disapplication, state that the section is to cease to apply to the premises on the date specified in the notice ;
- (d) shall be served on the chief constable not later than 14 days before the date specified as aforesaid.

(7) The secretary of any club to the premises of which this section applies shall notify the licensing board for the area within which such premises are situated of any reconstruction or extension of, or alteration in, the premises which affects the facilities available in the premises for the provision of substantial refreshment, and if the secretary of any club contravenes this subsection he shall be guilty of an offence.

(8) The holder of the licence for premises to which this section applies shall keep posted in some conspicuous place in the premises a notice stating that this section applies thereto and setting out the effect of its application, and if any person contravenes this subsection he shall be guilty of an offence.

## **59 Restaurants in public houses may have permitted hours on Sundays in certain cases**

(1) This section shall apply to any premises for which a public house licence is held and in respect of which an application for Sunday opening has not been granted under Schedule 4 to this Act—

- (a) if the holder of the licence gives notice of the application of the section to the premises in accordance with subsection (6) below, and
- (b) as from such date as may be specified in the said notice:

Provided that a licence-holder shall not give notice of application as aforesaid, and this section shall not apply to the premises for which he holds his licence, unless—

- (i) the licensing board for the area within which the premises are situated is satisfied that the premises are structurally adapted and bona fide used, or intended to be used, for the purpose of habitually providing the customary main meal at midday or in the evening, or both, for the accommodation of

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persons frequenting the premises, and that the part of the premises mentioned in subsection (3) below does not contain a bar counter ; and

(ii) in the case of premises situated in a new town as defined in section 52 of this Act, the committee constituted under section 47 of this Act for the new town have notified the licence-holder that they have no objection to the application of this section to the premises.

(2) While this section applies to any premises, the effect shall be that for the purposes mentioned in subsection (3) below there shall be permitted hours in those premises on Sundays, such permitted hours being the period between half-past twelve and half-past two in the afternoon and the period between half-past six and eleven in the evening.

(3) The purposes referred to in subsection (2) above are—

(a) the sale or supply to persons taking table meals in the premises of alcoholic liquor supplied in a part of the premises usually set apart for the service of such persons, and supplied for consumption by such a person in that part of the premises as an ancillary to his meal; and

(b) the consumption of alcoholic liquor so supplied.

(4) While this section applies to any premises, then for purposes other than those mentioned in subsection (3) above, or in parts of the premises other than the part so mentioned, or except as otherwise provided by this Act, there shall be no permitted hours on Sundays.

(5) This section shall cease to apply to premises on such day as may be specified in the notice if the holder of the licence gives notice of the disapplication of the section from the premises in accordance with subsection (6) below:

Provided that this section shall cease to apply to premises at any time on the licensing board ceasing to be satisfied as mentioned in paragraph (i) of the proviso to subsection (1) above.

(6) A notice of the application of this section to, or of the disapplication of this section from, any premises—

(a) shall be in writing ;

(b) shall, in the case of a notice of application, specify the date from which the section is to apply to the premises and, in the case of a notice of disapplication, state that the section is to cease to apply to the premises on the date specified in the notice ;

(c) shall be served on the chief constable not later than 14 days before the date specified as aforesaid.

(7) The holder of the licence for premises to which this section applies shall keep posted in some conspicuous place in the premises a notice stating that this section applies thereto and setting out the effect of its application, and if any licence-holder contravenes this subsection he shall be guilty of an offence.

## **60 Other provisions as respects permitted hours on Sundays**

(1) This section shall apply to any premises for which a hotel licence, restricted hotel licence, or restaurant licence is held and to any premises for which a public house licence or refreshment licence is held and in respect of which an application for Sunday opening has been granted under Schedule 4 to this Act if the licence-holder gives notice of the application of the section to the premises in accordance with the

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provisions of section 58(1) of this Act, and the effect of the application of this section to those premises shall be that, for the purposes mentioned in section 58(3) of this Act, the permitted hours on Sundays shall be extended by the addition to them of the hours between five and half-past six in the evening, and subsections (4), (5), (6) and (8) of that section shall apply accordingly.

- (2) This section shall apply to any premises for which a public house licence is held and to which section 59 of this Act applies if the licence-holder gives notice of the application of the section to the premises in accordance with the provisions of subsection (1) of section 59 of this Act, and the effect of the application of this section to those premises shall be that, for the purposes mentioned in subsection (3) of section 59 of this Act, the permitted hours on Sundays shall be extended by the addition to them of the hours between five and half-past six in the evening, and subsections (5) to (7) of that section shall apply accordingly.

## **61 Six-day licences**

- (1) On granting or transferring a hotel licence, a restricted hotel licence, a restaurant licence or an entertainment licence in respect of any premises, a licensing board shall, if the applicant so requests, insert in the licence a condition that there shall be no permitted hours in those premises on Sundays.
- (2) A licence in which such a condition has been inserted is in this Act referred to as a six-day licence.

## **62 Seasonal licences**

- (1) On granting or transferring a licence in respect of any premises, a licensing board may, if the applicant so requests and if the board is satisfied that the requirements of the area for which the board is constituted make it desirable, insert in the licence a condition that, during such part or parts of the year as may be specified in the condition (being a part which is not longer, or parts which taken together are not longer, than 180 days),—
- (a) in the case of premises other than off-sale premises, there shall be no permitted hours in the premises; or
  - (b) in the case of hotel premises, there shall be no permitted hours in the premises except in that part or those parts of the premises which consist of a bar or a restaurant which is open to the public; or
  - (c) in the case of off-sale premises, the licence-holder shall not open the premises for the serving of customers with alcoholic liquor.
- (2) A licence in which such a condition has been inserted is in this Act referred to as a seasonal licence.

## **63 Exemption of international airports from restrictions on times at which alcoholic liquor may be sold or supplied**

- (1) The Secretary of State may by order bring this section into operation at any airport which appears to him to be an airport at which there is a substantial amount of international passenger traffic.
- (2) At an airport where this section is in operation, neither section 54 nor section 119 of this Act nor any provision or rule of law prohibiting or restricting the sale or supply of alcoholic liquor on Sunday shall apply to licensed premises which are within the



examination station approved for the airport under section 16 of the Customs and Excise Act 1952.

- (3) Before the Secretary of State makes an order bringing this section into operation at an airport, he shall satisfy himself that arrangements have been made for affording reasonable facilities in licensed premises within the said examination station on the airport for obtaining hot and cold beverages other than alcoholic liquor at all times when alcoholic liquor is obtainable for consumption in those premises, and if it appears to him that at any airport where this section is in operation such arrangements are not being maintained he shall revoke the order in force as respects that airport; but this subsection shall be without prejudice to his power of making a further order with respect to that airport
- (4) The power of making orders under this section shall include power to revoke a previous order and shall be exercisable by statutory instrument.

#### **64 Occasional and regular extensions of permitted hours**

- (1) Any person holding a public house licence, a hotel licence, a restricted hotel licence, a restaurant licence, an entertainment licence or a licence under Part III of this Act, in respect of any premises, may apply to the licensing board within whose area the premises are situated for the grant of an occasional or regular extension of permitted hours, and at the same time as he makes the application he shall send a copy of the application to the chief constable.
- (2) A licensing board may grant an application for an occasional extension of permitted hours in connection with any occasion which the board considers appropriate, and such a grant shall authorise the person to whom it was granted to sell or supply alcoholic liquor in the premises to which the application relates during such period not exceeding one month and between such hours and on such day as may be specified in the grant.
- (3) After considering the application and any objections made thereto, a licensing board may grant an application for the regular extension of permitted hours if, having regard to the social circumstances of the locality in which the premises in respect of which the application is made are situated or to activities taking place in that locality, the board considers it is desirable to do so, and such a grant shall authorise the person to whom it was granted to sell or supply alcoholic liquor in the premises to which the application relates during such period in the year succeeding the date of the grant and between such hours and on such days as may be specified in the grant.
- (4) A licensing board may not grant an application from the holder of a public house licence for an occasional or regular extension of permitted hours on Sundays, except as respects premises to which section 59 of this Act applies and for the purposes of that section.
- (5) The secretary of a registered club may apply to the licensing board within whose area the premises of the club are situated for the grant of an occasional or regular extension of permitted hours under this section, and the licensing board may grant such an extension if it is satisfied as to the matters mentioned in subsection (2) or (3) above or, in the case of an application for an occasional extension of permitted hours, consider that the occasion or circumstances in respect of which the application is made arise out of or are related to the functions of the club or a private function organised by an individual member or group of members of the club.

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- (6) A licensing board may attach such conditions as it thinks fit to the grant of an occasional or regular extension of permitted hours under this section, and if—
- (a) the holder of a licence or his employee or agent contravenes such a condition he shall be guilty of an offence ; or
  - (b) such a condition is contravened as regards any club, every person entered in the register of clubs as an official or member of the committee of management or governing body of the club at the time of the contravention shall be guilty of an offence:

Provided that a person shall not be convicted of an offence under this paragraph if he proves that the contravention in question took place without his knowledge or consent.

- (7) Any person mentioned in section 16(1) of this Act may object to an application for the regular extension of permitted hours, and any such objection shall be made in writing and lodged with the clerk of the licensing board and a copy thereof sent to the applicant not less than 7 days before the quarterly meeting at which the application is to be considered.
- (8) A licensing board shall not grant an extension of permitted hours under this section if it considers that the extension is likely to cause undue public nuisance or to be a threat to public order or safety.

## **65 Restriction orders**

- (1) Where, on a complaint being made to a licensing board by any person mentioned in section 16(1) of this Act, the board is satisfied that the sale or supply of alcoholic liquor in the evening in licensed premises or in a registered club is the cause of undue public nuisance or constitutes a threat to public order or safety, the board may make an order (in this section referred to as " a restriction order "), and the effect of the restriction order is that the permitted hours in the evening shall be reduced by such a time and for such a period as may be specified in the order but no such order shall restrict the permitted hours before ten in the evening.
- (2) The provisions of subsections (4) to (6) of section 31 of this Act shall, with any necessary modifications, apply in relation to a restriction order as they apply in relation to the suspension of a licence.
- (3) The licensing board may make a restriction order in relation to individual premises or in relation to a group of premises in respect of which the same type of licence is held.
- (4) An application for the revocation of a restriction order may only be made after the expiry of two-thirds of the period for which the restriction order is in force.
- (5) An application for the revocation of a restriction order shall be made in writing by the licence-holder of the premises or by the secretary of the registered club to which the order relates and lodged with the clerk of the licensing board not less than 21 days before the quarterly meeting at which the application is to be considered, and the licence-holder or secretary shall, at the same time, send a copy of the application to the persons whose complaint led to the making of the restriction order.
- (6) Any person competent to make a complaint under this section may object to the revocation of a restriction order, and any such objection shall be made in writing and lodged with the clerk of the licensing board and a copy thereof sent to the licence-

holder or to the registered club not less than 7 days before the quarterly meeting at which the application for revocation is to be considered.

- (7) After considering the application and any objections made thereto, the licensing board may take such decision in the matter as it thinks fit and any such decision may relate to all or any of the premises which are the subject of the restriction order.
- (8) The holder of the licence or a registered club may appeal to the sheriff against a decision of a licensing board to make a restriction order or against the period specified in a restriction order or against a refusal of the board to revoke the order, and any complainer who appeared at the hearing of an application for the revocation of a restriction order may appeal to the sheriff against a decision of the board to revoke the order.

## **66 Temporary restriction of permitted hours**

- (1) On an application made to a licensing board by a constable of the rank of chief inspector or above for an order making a temporary restriction of permitted hours the board may, if it considers it desirable in the interests of public order or safety, order that the premises to which the application relates be closed to the public for such time of up to 3 hours and on such day or days as may be specified in the order.
- (2) The licensing board may make an order under subsection (1) above in relation to individual premises or in relation to a group of premises in respect of which the same type of licence is held.
- (3) The licence-holder of premises to which an application under subsection (1) above relates or the registered club concerned shall have no right to object to the application.
- (4) An order under this section may be made in relation to any licensed premises or registered club.