



Licensing (Scotland) Act 1976

1976 CHAPTER 66

PART VII

CLUBS

102 Register of clubs

- (1) The sheriff clerk for each sheriff court district (hereafter in this Part of this Act called " the registrar ") shall keep a register of clubs situated within that district in respect of which a certificate of registration has been granted under this Part of this Act.
- (2) A sheriff clerk depute may exercise any of the functions of the registrar under this Part of this Act.
- (3) There shall be entered in the said register in respect of each club registered therein—
 - (a) the name of the club ;
 - (b) the address of the premises in respect of which the certificate of registration has been granted;
 - (c) a statement whether the club is the tenant or the proprietor and occupier of those premises;
 - (d) the name and address of the secretary of the club;
 - (e) the date of the certificate granted to the club; and
 - (f) a statement whether the certificate has been granted for the first time or on renewal.
- (4) The registration of a club under this Part of this Act shall not constitute the club licensed premises or authorise any sale of alcoholic liquor therein which would otherwise be illegal.

103 Application for certificate of registration

- (1) An application for a certificate of registration in respect of any club shall be signed by the chairman, secretary or solicitor of the club, and shall be lodged with the registrar.

- (2) There shall be specified in any such application—
- (a) the name of the club ;
 - (b) the objects of the club ;
 - (c) the address of the premises occupied by the club.
- (3) There shall be lodged along with any such application—
- (a) two copies of the rules of the club ;
 - (b) a list containing the name and address of each official and each member of the committee of management or governing body of the club ; and
 - (c) a statement in the form set out in Schedule 6 to this Act certifying that the club is to be or, in the case of an existing club, has been and is to be conducted as a bona fide club and not mainly for the supply of alcoholic liquor.
- (4) Any such statement as is referred to in subsection (3)(c) above shall be signed by two members of the licensing board for the area in which the premises occupied by the club are situated, and, if the premises occupied by the club are not owned by it, the statement shall be signed also by the owner of the premises or, if the owner is under a legal disability, by his legal representative:

Provided that any member of a licensing board who has signed the statement may, within ten days of that signature, withdraw his name therefrom.

- (5) Any change made in the rules of the club or in the list lodged with the application under subsection (3) above shall be intimated to the registrar forthwith.
- (6) If any person in an application under this section or in any of the accompanying documents specified in subsection (3) above makes any statement which he knows to be false in a material particular, or recklessly makes any statement which is false in a material particular, he shall be guilty of an offence.
- (7) If subsection (6) above 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 that club at the time of the contravention shall be guilty of an offence under that subsection :

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

104 Application for renewal of certificate of registration

- (1) Subject to subsection (2) below, an application for the renewal of a certificate of registration granted to a club under this Part of this Act shall be lodged with the registrar by the secretary of the club not later than 21 days before the date of expiry of that certificate.
- (2) Notwithstanding subsection (1) above, the sheriff may entertain such an application if it is lodged later than 21 days before the said date, but shall not grant the application unless he is satisfied that the failure to lodge it timeously was due to inadvertence.
- (3) The secretary of the club shall lodge, along with such application, a certificate stating either that no changes have been made in the rules of the club or in the list containing the names and addresses of the officials and the members of the committee of management or governing body of the club since the last application was made under

this section or section 103 of this Act, as the case may be, or that any such change has already been intimated to the registrar.

- (4) Section 103 of this Act shall, with any necessary modifications, apply in respect of an application for the renewal of a certificate of registration as it applies in respect of an application under that section.

105 Procedure on application for grant or renewal of certificate of registration

- (1) The applicant shall give intimation of the lodging of an application for the grant of a certificate of registration in respect of a club by—
- (a) publishing a notice thereof twice in the 7 days immediately following the date of such lodging in a newspaper circulating in the area in which the club is situated ;
 - (b) displaying a notice thereof in a conspicuous place on or near the premises occupied by the club for the period of 21 days immediately following that date.
- (2) On an application for the grant or for the renewal of such a certificate being lodged in accordance with the foregoing provisions of this Part of this Act, the registrar shall forthwith give notice of such application—
- (a) to the chief constable;
 - (b) to the council of the district or islands area within which the premises are situated ; and
 - (c) to the fire authority for the area.
- (3) Objection to the grant or renewal of a certificate of registration in respect of any club may be made on any of the grounds specified in section 108 of this Act by—
- (a) any of the persons to whom notice has been given under subsection (2) above;
 - (b) any person owning or occupying property in the neighbourhood of the premises occupied by the club;
 - (c) a community council for the area in which the premises are situated which has been established in accordance with the provisions of the Local Government (Scotland) Act 1973 ; and
 - (d) any church which in the opinion of the sheriff represents a significant body of opinion among persons residing in the neighbourhood of those premises.
- (4) Any such objections shall be lodged with the registrar by the objector and a copy of the objections shall be sent to the secretary of the club in respect of which the application is made within 21 days of the first publication of the notice in pursuance of subsection (1)(a) above.
- (5) Any objections to the renewal of a certificate of registration in respect of any club by any of the persons to whom notice has been given under subsection (2) above shall be lodged with the registrar and a copy of the objections sent to the secretary of the club concerned within 21 days of the date of the aforesaid notice.
- (6) On an application for the grant of a certificate of registration in respect of any club or for the renewal of such a certificate—
- (a) if no objections to the grant or renewal of such certificate are lodged in accordance with the foregoing provisions of this section, or if all such objections are withdrawn, the sheriff shall, if he is satisfied that the application has been duly made in accordance with the foregoing provisions of this Part

of this Act and that the rules of the club are in conformity with the provisions of this Act, grant the application ;

- (b) if such objections are lodged and not withdrawn, the sheriff shall, as soon as may be, hear parties upon the application and objections and may order such enquiry as he thinks fit, and shall thereafter grant or refuse the certificate, and may award expenses against the unsuccessful party.

- (7) The sheriff shall, on granting any such application, cause the entries required by section 102 of this Act to be made in the register of clubs and thereupon the registrar shall issue to the applicant a certificate of registration in the form set out in Schedule 6 to this Act.

106 Currency of certificate of registration

A certificate of registration shall, subject to the provisions of this Part of this Act, remain in force for a period of three years from the date of issue :

Provided that, where an application for the renewal of such a certificate has been made, that certificate shall remain in force pending the final decision of the sheriff on such application for a period not exceeding three months from the date on which the certificate would otherwise have expired and, if the sheriff thinks fit, for a further period not exceeding three months.

107 Club rules qualifying for registration

- (1) A certificate of registration shall not be granted under this Part of this Act to any club unless the rules of the club provide—
 - (a) that the business and affairs of the club shall be under the management of a committee or governing body who shall be elected for not less than one year by the governing body of members and shall be subject in whole or in part or in a specified proportion to annual re-election, or of whom not more than one-third may be non-elected persons from outwith the club and the remainder shall be elected and subject to annual re-election as aforesaid;
 - (b) that no member of the committee or governing body and no manager or servant employed in the club shall have any personal interest in the sale of alcoholic liquor therein or in the profits arising from such sale;
 - (c) that the committee or governing body shall hold periodical meetings;
 - (d) that, unless the club is one to which subsection (4) below applies, all members of the club shall be elected by the whole body of members or by the committee or governing body, with or without specially added members ;
 - (e) that, unless the club is one to which subsection (4) below applies, the names and addresses of persons proposed as ordinary members of the club shall be displayed in a conspicuous place in the club premises for at least a week before their election, and that an interval of not less than two weeks shall elapse between the nomination and election of ordinary members ;
 - (f) that no alcoholic liquor shall be sold or supplied in the club to any person under 18 ;
 - (g) that no person under 18 shall be admitted a member of the club unless the club is one which is devoted primarily to some athletic purpose or to which subsection (4) below applies;
 - (h) that no persons shall be allowed to become honorary or temporary members of the club or be relieved of the payment of the regular entrance fee or

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subscription, except those possessing certain qualifications defined in the rules and subject to conditions and regulations prescribed therein;

- (i) that there shall be a defined subscription payable in advance by members;
- (j) that correct accounts and books shall be kept showing the financial affairs and intromissions of the club;
- (k) that a visitor shall not be supplied with alcoholic liquor in the club premises unless on the invitation and in the company of a member and that the member shall, upon the admission of such visitor to the club premises or immediately upon his being supplied with such liquor, enter his own name and the name and address of the visitor in a book which shall be kept for the purpose and which shall show the date of each visit; and
- (l) that no alcoholic liquor shall be sold or supplied in the club premises for consumption off the premises, except to a member of the club in person for consumption by him or to a person holding a licence or a wholesaler's excise licence for the sale of such liquor:

Provided that this subsection shall not apply to any lodge of Freemasons duly constituted under a charter from the Grand Lodge of Scotland.

- (2) Notwithstanding anything in subsection (1) above, the rules of a registered club may provide for the admission to the premises of the club of persons who are members of another club, and for the sale and supply of alcoholic liquor to such persons by or on behalf of the club for consumption on the premises, if—
 - (a) the other club is a registered club whose premises are in the locality and are temporarily closed; or
 - (b) both clubs exist for learned, educational, or political objects of a similar nature ; or
 - (c) each of the clubs is primarily a club for persons who are qualified by service or past service, or by any particular service or past service, in Her Majesty's Forces, and are members of an organisation established by Royal Charter, and consists wholly or mainly of such persons ; or
 - (d) each of the clubs is primarily a club for persons who carry on the same trade, profession or occupation, and that trade, profession or occupation is the same in the case of either club; or
 - (e) each of the clubs is a working men's club, that is to say, a club which is, as regards its purposes, qualified for registration as a working men's club under the Friendly Societies Act 1974, and is a registered society within the meaning of that Act or of the Industrial and Provident Societies Act 1965 ; or
 - (f) each of the clubs is one to which subsection (4) below applies.
- (3) Notwithstanding anything in this Act, the authority of a licence shall not be required for such a sale of alcoholic liquor as is mentioned in subsection (2) above and, where the rules of a club provide as aforesaid, alcoholic liquor may be supplied in the premises of the club to such persons as are mentioned in that subsection and their guests for consumption on the premises as it may to members of the club and their guests.
- (4) This subsection applies to the students union of a university, central institution, college of education or a further education college under the management of an education authority, which is recognised and certified as such to the registrar by the Senate or Academic Council of the university or the governing body of the central institution or college of education, or by the education authority, as the case may be; and any

expressions used in this subsection which are also used in the Education (Scotland) Act 1962 shall have the same meanings in this subsection as in that Act.

108 Competent grounds of objection to registration

The sheriff shall not consider any objection to the grant or renewal of a certificate of registration unless it is made on one or more of the following grounds:—

- (a) that the application made by the club is in any respect specified in such objection not in conformity with the provisions of this Act;
- (b) that the rules of the club are in any respect specified in such objection not in conformity with the provisions of this Act;
- (c) that the club has ceased to exist or has less than 25 members;
- (d) that the premises are, or the situation thereof is, not suitable or convenient for the purposes of a club ;
- (e) that the club occupies premises in respect of which, within the period of 12 months immediately preceding the formation of the club, an order had been made under section 67(3) of this Act or the renewal of a licence under this Act had been refused, or in respect of which at the time when the premises were first occupied by the club an order was in force under section 110 of this Act that they should not be used for the purposes of a club;
- (f) that the club is not conducted in good faith as a club, or that it is kept or habitually used for any unlawful purpose or mainly for the supply of alcoholic liquor;
- (g) that there has been a failure to intimate to the registrar forthwith any change in the rules of the club or in the list containing the names and addresses of the officials and members of the committee of management or governing body of the club ;
- (h) that the club is to be used mainly as a drinking club ;
- (i) that there is frequent drunkenness in the club premises, or that drunken persons are frequently seen to leave the premises;
- (j) that the club is conducted in a disorderly manner;
- (k) that illegal sales of alcoholic liquor have taken place in the club premises;
- (l) that persons who are not members of the club are habitually admitted to the club premises merely for the purpose of obtaining alcoholic liquor;
- (m) that the supply of alcoholic liquor to the club is not under the control of the members of the club or of the committee of management or governing body of the club;
- (n) that the officials and committee of management or governing body of the club, or the manager, or a servant employed in or by the club, have or will have a personal interest in the purchase by the club or in the sale in the premises of the club of alcoholic liquor or in the profits arising therefrom, or, where the said premises are not owned by the club, that the owner or the immediate lessor of the premises has or will have such a personal interest;
- (o) that any of the rules of the club referred to in section 107(1) of this Act are habitually broken ;
- (p) that persons are habitually admitted or supplied as members of the club without an interval of at least two weeks between their nomination and election as ordinary members, or for a subscription of a nominal amount;

- (q) that the officials and committee of management or governing body of the club, or the members of the club, are persons of bad character or persons who follow no lawful occupation and have no means of subsistence ;
- (r) that the club has been, is or will be used as a resort of persons of bad character ;
- (s) that alcoholic liquor is sold or supplied for consumption on or off the premises outwith the permitted hours.

109 Cancellation of certificate of registration

- (1) Any person entitled under section 105(3) of this Act to object to the renewal of the certificate of registration held by a registered club may apply to the sheriff for a finding that the club is being so managed or carried on as to give rise to a ground of objection to the renewal of its certificate, being one of the grounds of objection specified in section 108 of this Act; and the sheriff may, if he is satisfied that such ground of objection has been established, make the finding applied for and shall specify therein the grounds for the finding.
- (2) Where on an application under subsection (1) above such a finding as is therein mentioned has been made in respect of any club, or where a conviction has taken place under section 95 of this Act in respect of alcoholic liquor sold or supplied in any club, a certified copy of the application and finding or of the complaint and conviction, as the case may be, shall, within six days from the date of the finding or the conviction, be transmitted by the clerk of the court (unless he is also the registrar) to the registrar.
- (3) Where—
 - (a) such a finding as is mentioned in subsection (1) above has been made in respect of any club; or
 - (b) a conviction has taken place under section 95 of this Act in respect of alcoholic liquor sold or supplied in any club;the registrar shall enter such finding or conviction, as the case may be, in the register of clubs and lay the same before the sheriff; and the sheriff may, if he thinks fit, after such further enquiry as he may think necessary, and having regard to the grounds specified in such finding or the magnitude of the offence, as the case may be, cancel the certificate of registration of that club.
- (4) Where the certificate of registration of any club has been cancelled under subsection (3) above, that club may apply for renewal of that certificate, but not earlier than 12 months after the date of such cancellation.
- (5) The sheriff may, on an application under subsection (1) above, award expenses against the unsuccessful party.

110 Disqualification of premises for purposes of club

- (1) Where the sheriff has refused an application by a club for the renewal of its certificate of registration or where under section 109 of this Act he has cancelled the certificate held by a club, he may, if he thinks fit, order that the premises occupied by that club shall not be occupied and used for the purposes of any registered club.
- (2) An order made under subsection (1) above shall be in force for such period as the order shall specify, not exceeding—
 - (a) if the premises have not been subject to a previous order under that subsection, 12 months ;

- (b) if the premises have been subject to any such previous order, five years.
- (3) Such an order may, on good cause being shown, be subsequently cancelled or varied by the sheriff.

111 Penalties for offences by officials of registered clubs

- (1) Where a finding has been made under section 109(1) of this Act that a registered club is being so managed or carried on as to give rise to a ground of objection to the renewal of its certificate of registration, then if a ground of objection mentioned in paragraph (f), (i), (j) or (l) of section 108 of this Act is specified in such finding, every person entered in the register of clubs as an official or a member of the committee of management or governing body of the said club, at the time when the situation which gave rise to the ground of objection mentioned in any of those paragraphs existed, shall be guilty of an offence.
- (2) A person shall not be convicted of an offence under this section if he proves that the club was managed or carried on as aforesaid without his knowledge or consent and that he exercised all due diligence to prevent the club from being so managed or carried on.

112 Persons under 14 not to be allowed in club bars

- (1) A person under 14 shall not be allowed to be in a bar of a registered club during the permitted hours.
- (2) If subsection (1) above is contravened, 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 such an offence if he proves that the contravention in question took place without his knowledge or consent.

- (3) No person shall cause any person under 14 to be in a bar of a registered club during the permitted hours, and any person contravening this subsection shall be guilty of an offence.

113 Persons under 18 not to be employed to serve alcoholic liquor in clubs

- (1) A person under 18 shall not be employed in a registered club if the purpose, or one of the purposes, of his employment is to serve alcoholic liquor to persons in that club.
- (2) If this section 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 that 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 section if he proves that the contravention in question took place without his knowledge or consent.

- (3) For the purposes of this section, a person shall be deemed to be employed in a club where he works notwithstanding that he receives no wages for his work.
- (4) Where in any proceedings under this section it is alleged that a person was at any time under 18, and he appears to the court then to have been under that age, for the purposes of the proceedings he shall be deemed to have been then under that age unless the contrary is shown.

114 Power of police to enter clubs

- (1) If a justice of the peace or sheriff is satisfied by evidence on oath that there are reasonable grounds for believing—
 - (a) that any registered club is being so managed or carried on as to give rise to a ground of objection to the renewal of its certificate of registration, being one of the grounds of objection specified in section 108 of this Act; or
 - (b) that an offence under this Act has been or is being committed in any registered club ;

he may by warrant authorise a constable to enter the premises of such club at any time, if need be by force, and to search the premises and seize any documents relating to the business of the club and to take the names and addresses of any persons found in the premises.

- (2) If any person found in the premises of a club refuses to give his name and address on being requested to do so by a constable acting under a warrant granted in pursuance of the foregoing subsection, or gives a false name or address on being so requested, he shall be guilty of an offence.

115 Inspection of register of clubs and of rules and list of members of club

- (1) The register of clubs and a copy of the rules of any club lodged with the registrar under section 103(3) of this Act shall, at all reasonable times, be open to inspection on payment of a fee of 20p.
- (2) A chief constable or any constable authorised by him in writing or an officer of Customs and Excise shall be entitled to inspect the register of clubs and a copy of the rules of any registered club lodged as aforesaid at all reasonable times without payment.
- (3) There shall be kept on the premises of every registered club a copy of a current list containing the names and addresses of every member of the club; and a chief constable or any constable authorised by him in writing shall be entitled to inspect that list at all reasonable times without payment.

116 Citation of registered club

Any citation of a registered club may be validly made in the registered name thereof in accordance with the Citation Amendment (Scotland) Act 1882, or by a copy of the citation being left by an officer of court at the registered address of the club.

117 Sheriff's jurisdiction and decision

- (1) The jurisdiction conferred on the sheriff by this Part of this Act shall not be excluded in relation to any club by reason only of the fact that he is a member of that club.
- (2) The decision of the sheriff in dealing with an application for the grant of a certificate of registration or for the renewal of such a certificate or in cancelling such a certificate shall be final.

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

118 Interpretation of Part VII

In this Part of this Act, references to the secretary of a club shall include references to any officer of the club or other person performing the duties of a secretary.