



# Law Reform (Miscellaneous Provisions) (Scotland) Act 1990

## 1990 CHAPTER 40

### PART III

#### THE LICENSING (SCOTLAND) ACT 1976

##### *Times of opening*

#### 45 Permitted hours.

- (1) For section 53 of the <sup>M1</sup>Licensing (Scotland) Act 1976 (in this Part of this Act referred to as “the principal Act”) there shall be substituted the following section—

**“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—
- (a) for days other than Sundays, the period between eleven in the morning and eleven in the evening; and
  - (b) for Sundays, 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.
- (2) 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.”
- (2) In section 56 of that Act (permitted hours in certain clubs)—
- (a) for subsection (1) there shall be substituted the following subsection—

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- “(1) A registered club may apply to the sheriff for an order providing that during the winter period the permitted hours in the club on Sundays shall not be those set out in section 53 of this Act, 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; and the sheriff shall, if in his opinion the conditions set out in subsection (2) below are satisfied, make the order applied for.”; and
- (b) in subsection (2)(d), for the words “section 53(3)” there shall be substituted the words “ section 53 ”.
- (3) In subsection (2) of section 57 of that Act (extension of permitted hours in the afternoon in certain premises), after “afternoon” there shall be inserted the words “ on Sundays ”.

#### Marginal Citations

M1 1976 c. 66.

## 46 Sunday opening of licensed premises.

- (1) The amendment by section 45 of this Act of section 53 of the principal Act shall not permit the opening for the sale or supply of alcoholic liquor during the permitted hours on a Sunday of premises for which there is in force a public house licence or a refreshment licence unless—
- (a) the grant, provisional grant or renewal of such licence was in response to an application which stated that it was the intention of the applicant that the premises should be open for the sale or supply of alcoholic liquor during the permitted hours on a Sunday; or
- (b) before such a licence has been renewed, the licensing board has granted an application for Sunday opening in respect of the premises in accordance with the provisions of Schedule 4 to the principal Act,
- and, subject to subsection (8) below, the said Schedule 4 shall continue to have effect until all such licences in force at the commencement of this Act have been renewed or have ceased to have effect.
- (2) In section 10 of the principal Act (applications for licences)—
- (a) after subsection (3) there shall be added the following subsection—
- “(3A) In the case of an application for the grant, the provisional grant or the renewal of a public house licence or a refreshment licence, the application shall state whether the applicant intends the premises to be open for the sale or supply of alcoholic liquor during the permitted hours on a Sunday.”; and
- (b) after subsection (7) there shall be added the following subsection—
- “(8) A notice as mentioned in subsection (2) above and notice under subsection (5) above shall include a statement as to whether the applicant intends the premises to be open for the sale or supply of alcoholic liquor during the permitted hours on a Sunday.”.
- (3) In section 12 of that Act (publication of list of applications), at the end of subsection (2), there shall be added the following paragraph—

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- “(f) in the case of an application for a public house licence or a refreshment licence, whether the applicant intends the premises to be open for the sale or supply of alcoholic liquor during the permitted hours on a Sunday.”.
- (4) In section 17 of that Act (grounds for refusal of application)—
- (a) after subsection (2) there shall be inserted the following subsection—
- “(2A) A licensing board shall refuse to grant or renew a public house or a refreshment licence in respect of the permitted hours on a Sunday if it finds that the opening and use on a Sunday of the premises to which the application relates would cause undue disturbance or public nuisance in the locality, but the refusal of an application on that ground alone shall not prevent the licensing board from granting the application in respect of days other than Sundays.”.
- (b) in subsection (4), after the words “transfer the licence” there shall be inserted the words “or to grant the licence in respect of the permitted hours on a Sunday”.
- (5) In section 59 (restaurants in public houses to have permitted hours on Sundays), for the words “an application for Sunday opening has not been granted under Schedule 4 to this Act” there shall be substituted the words “there are no permitted hours on a Sunday”.
- (6) In section 60 (other extensions of permitted hours on Sundays), for the words “an application for Sunday opening has been granted under Schedule 4 to this Act” there shall be substituted the words “there are permitted hours on Sundays in accordance with section 53 of this Act”.
- (7) In section 64 (extensions to permitted hours), for subsection (4) there shall be substituted the following subsections—
- “(4) A licensing board shall not grant an application from the holder of a public house licence for an occasional or regular extension of permitted hours on Sundays except—
- (a) as respects premises to which section 59 of this Act applies and for the purposes of that section; and
- (b) in the case of other premises, as respects any period or periods after half-past two in the afternoon,
- and the board shall refuse to grant such an application if it finds that the extension of permitted hours would cause undue disturbance or public nuisance in the locality.
- (4A) Nothing in subsection (4)
- above shall prevent the granting of an application for an occasional or regular extension of permitted hours on a Saturday for a period which continues into Sunday morning.”
- (8) In Schedule 4 to the principal Act (provision for Sunday opening of premises with a public house or refreshment licence)—
- (a) in paragraph 1, the words “as mentioned in section 53(2) of this Act” shall cease to have effect;
- (b) in paragraph 15, the words “or 12 above” shall cease to have effect;

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(c) after paragraph 15 there shall be inserted the following paragraph—

“15A

If an application for renewal of a public house licence or a refreshment licence includes a statement that the applicant intends that the premises should be open for the sale or supply of alcoholic liquor during the permitted hours on a Sunday and if there is currently in force the grant of an application for Sunday opening, that grant shall continue to have effect—

- (a) until the renewal application is granted by the board;
- (b) if the renewal application is refused by the board, or refused in respect of Sunday opening, until the time within which an appeal may be made has elapsed, or if an appeal has been lodged, until the appeal has been abandoned or determined.”;

and

(d) paragraphs 12 to 14, 16 and 17 shall cease to have effect.

(9) Expressions used in this section and in the principal Act shall have the same meaning as in that Act.

#### **47 Regular extensions of permitted hours.**

(1) A licensing board shall not grant an application under section 64 of the principal Act for an extension of permitted hours unless it is satisfied by the applicant, taking account of the factors mentioned in subsection (3) of that section—

- (a) that there is a need in the locality in which the premises in respect of which the application is made are situated for a regular extension of the permitted hours; and
- (b) that such an extension is likely to be of such benefit to the community as a whole as to outweigh any detriment to that locality.

(2) In determining whether to grant an application for a regular extension to permitted hours in respect of any premises it shall not be a relevant consideration for the licensing board to have regard to whether any application relating to any other premises in its area has, at any time, been granted or refused or the grounds on which any such application has been granted or refused.

(3) Expressions used in this section and in the principal Act shall have the same meaning as in that Act.

#### **48 Restriction orders.**

(1) Section 65 of the principal Act (restriction on the permitted hours) shall be amended in accordance with the following provisions of this section.

(2) For subsection (1) there shall be substituted the following subsections—

“(1) Where, on a complaint being made to a licensing board by any person mentioned in section 16(1) of this Act in respect of any licensed premises or registered club, the board is satisfied that—

- (a) the sale or supply of alcoholic liquor in the afternoon or 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; or

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- (b) the use of licensed premises is the cause of undue disturbance or public nuisance having regard to the way of life in the locality on a Sunday,
- the board may make an order, in this section referred to as an “afternoon restriction order” or “evening restriction order” in the case of the grounds mentioned in paragraph (a) above or as a “Sunday restriction order” in the case of the grounds mentioned in paragraph (b) above; and, in this section, “restriction order” includes any such order.
- (1A) The effect of an afternoon restriction order is that the permitted hours between half-past two and five in the afternoon shall be reduced by such a time and for such a period as may be specified in the order.
- (1B) The effect of an evening 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.
- (1C) The effect of a Sunday restriction order is that there shall be no permitted hours on Sunday for such period as may be specified in the order or that the permitted hours on Sunday shall be reduced by such a time and for such a period as may be so specified.”
- (3) At the end of subsection (3) there shall be inserted the words “ provided that no restriction order shall be made in respect of premises in respect of which no complaint has been made ”.

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