



Finance Act 1942

1942 CHAPTER 21

PART I

CUSTOMS AND EXCISE.

Excise Licences.

- 10 Relief from duty on liquor licences, and provisions as to justices' licences, where business discontinued owing to war circumstances.**
- (1) Subsections (1) to (3) of section thirteen of the Finance Act, 1935 (which relate to the repayment or remission of excise duty on licences for the sale of intoxicating liquor taken out under Part II of the Finance (1909-10) Act, 1910, where a business has been temporarily discontinued by reason, amongst other things, of the licensed premises having been destroyed or seriously damaged) shall have effect where the holder of such a licence satisfies the Commissioners that a business has been temporarily discontinued, whether before or after the passing of this Act, by reason of any circumstances directly or indirectly attributable to any war in which His Majesty may be or have been engaged (in this and the next five following sections and in the Sixth Schedule to this Act referred to as " war circumstances ").
- (2) Where the Commissioners are satisfied, on an application being made to them for a certificate under this subsection, that a business has been temporarily discontinued by reason of war circumstances, they shall certify accordingly, and any such certificate shall state whether or not those circumstances included the destruction of the premises or serious damage thereto.
- (3) Where a certificate is given under the last preceding subsection as respects a business carried on in any premises, the justices' licence granted in respect thereof which was in force immediately before the discontinuance shall, subject as provided by subsection (4) of this section, be, and be deemed to have been, in suspense from the time of the discontinuance until the time when either it is, or is to be deemed to have been, again in force for all purposes by virtue of the provisions of Part I of the Sixth

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Schedule to this Act in that behalf, or extinguished by virtue of the provisions of Part I of the said Schedule in that behalf.

(4) During the suspension of a licence by virtue of the last preceding subsection the following provisions shall have effect, and be deemed to have had effect, in relation thereto, that is to say,—

- (a) the provisions of the Licensing (Consolidation) Act, 1910, as to the transfer and removal of justices' licences, subject as respects transfer to the provisions in that behalf of Part I of the Sixth Schedule to this Act;
- (b) the provisions of the said Act as to the forfeiture of justices' licences and the avoidance thereof by reason of the disqualification of the holder or of the premises, but, as respects disqualification of the premises, subject to the provisions of the next succeeding subsection; and
- (c) the provisions of Part I of the Sixth Schedule to this Act as to the extinguishment of a licence whilst in suspense on grounds relating to the conduct of the holder or to his fitness to be the holder of the licence, or by the compensation authority on reference from the licensing justices ;

but the licence shall not be, and shall be deemed not to have been, in force for any purpose except so far as is requisite for giving effect to the said provisions.

(5) Where a certificate is given under subsection (2) of this section as respects a business carried on in any premises, and it is certified that the war circumstances included the destruction of the premises or serious damage thereto, the provisions of the Licensing (Consolidation) Act, 1910, as to avoidance of justices' licences by reason of disqualification of premises shall not have effect, and shall be deemed not to have had effect, in relation to a justices' licence granted in respect of the premises,—

- (a) during the suspension of the licence by virtue of subsection (3) of this section ;
or
- (b) where the destruction or damage occurred before the passing of this Act, during any period elapsing between the occurrence thereof and the passing of this Act.

(6) For the purposes of this section and of the Sixth Schedule to this Act the destruction of premises or serious damage thereto, though not caused by enemy action or other cause arising from war, shall be deemed in relation to a business carried on therein to be war circumstances if the execution of works necessary to enable the business to be carried on is prevented by war circumstances.

(7) This section shall, in its application to Scotland, have effect subject to the following modifications :—

- (a) for any reference to a justices' licence there shall be substituted a reference to a certificate as defined in Part VII of the Licensing (Scotland) Act, 1903 ; for any reference to the Licensing (Consolidation) Act, 1910, there shall be substituted a reference to the Licensing (Scotland) Acts, 1903 to 1934; for any reference to Part I of the Sixth Schedule there shall be substituted a reference to Part II of that Schedule; for any reference to the provisions of the said Act of 1910 as to removal of licences there shall be substituted a reference to the provisions of Part II of the Sixth Schedule as to removal of certificates ; and references to the provisions of Part I of the Sixth Schedule as to transfer and to the compensation authority shall not apply ;
- (b) a certificate which is in suspense by virtue of subsection (3) of this section shall not continue so to be unless an application for renewal thereof is duly made and granted at each April half yearly meeting of the licensing court

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occurring after the passing of this Act during the period of discontinuance of the business, and accordingly subsection (4) of this section shall have effect as if after the word ", transfer " where it first occurs therein there were inserted the word " renewal ".

11 Annual value for duty purposes where business restricted by war circumstances to part of premises.

- (1) Where by reason of war circumstances the carrying on of the business carried on in any premises is in any year restricted to a part only of the premises, the duty for that year on any excise licence for the sale of intoxicating liquor on which the duty is charged by reference to the annual value of the premises shall not exceed the amount of the duty which would be chargeable if the annual value of the premises were of an amount equal to the annual value, ascertained as hereinafter provided, of the said part of the premises, and the Commissioners shall grant relief to the holder of the licence accordingly, either by repayment or by remission of duty :

Provided that if the carrying on of the business is restricted for part only of the year, the relief to be granted shall be reduced proportionately.

- (2) For the purposes of subsection (1) of this section, the annual value of a part of any premises shall be ascertained in like manner as, under subsection (1) of section twelve of the Finance Act, 1924, the annual value of licensed premises is to be ascertained in cases where there is no income tax value applicable.
- (3) Where relief from duty has become due under subsection (1) of this section, and either the restriction comes to an end or the part of the premises in which the business is carried on is extended, that fact shall, within one month, be notified to the Commissioners, and if this subsection is not complied with the licence shall become void.
- (4) Where, by reason of the restriction coming to an end or the part of the premises being extended as aforesaid, the relief granted under subsection (1) of this section proves to have been excessive, the amount of the excess shall be recoverable as a debt due to His Majesty.

12 Reduction of duty for hotels and restaurants applicable notwithstanding effect of war circumstances on receipts.

Where in the case of any such licensed hotel or restaurant premises as are mentioned in section forty-five of the Finance (1909-10) Act, 1910, it is shown to the satisfaction of the Commissioners as respects any year that by reason of war circumstances the reduction of duty provided for by the said section forty-five, in cases where in the preceding year the receipts from the sale of intoxicating liquor do not exceed a specified proportion of the total receipts of the business, would apart from this section not be applicable, the Commissioners may, if it appears to them necessary so to do to avoid hardship, direct that, for the purpose of ascertaining whether the said reduction is applicable, the said section forty-five shall have effect as if for references to receipts in the preceding year there were substituted references to receipts in such earlier year as the Commissioners think just; but if as the result of such a direction the reduced duty is payable under subsection (1) of the said section forty-five, the amount thereof shall be calculated by reference to the receipts of the preceding year, and not to those of the said earlier year.

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13 Reduction of duty on publicans' licences in respect of diminution in supplies of wines and spirits.

A reduction of five per cent. of the amount which would have been payable apart from this section shall be made (either by repayment or by remission of duty), in respect of the diminution attributable to war circumstances in supplies of wines and spirits, in the licence duty in respect of a publican's licence granted for a year beginning in the year nineteen hundred and forty-two or granted for any later year at the beginning of which the Emergency Powers (Defence) Act, 1939, is still in force :

Provided that this section shall not have effect in relation to a licence granted in respect of any such licensed hotel or restaurant premises as are mentioned in section forty-five of the Finance (1909-10) Act, 1910.

14 Relief from duty where trade diminished by war circumstances.

- (1) If in the case of any premises in respect of which a licence for the sale of beer or wines or spirits is held as a separate licence (whether or not any other such licence is so held in respect of the premises) the Commissioners are satisfied, on a comparison of the trade (by quantities) in that liquor in the premises during such periods as will in their opinion afford a just basis of comparison, that war circumstances have caused a diminution of not less than twenty-five per cent. in that trade, they may reduce the duty in respect of the licence, either by repayment or by remission of duty, by two-thirds of twenty-five per cent. thereof, or, if the diminution represents a percentage higher than twenty-five, by two-thirds of that higher percentage of the duty.
- (2) If in the case of any premises in respect of which a publican's licence is held the Commissioners are satisfied as mentioned in the preceding subsection as regards the trade (by quantities) in beer in the premises, or, in the case of premises in Scotland in the case of which the holder of the licence desires relief under this subsection to be given by reference to spirits, as regards the trade (by quantities) in spirits in the premises, they may make such a reduction as is mentioned in that subsection in the amount of the duty in respect of the licence.
- (3) If the income tax value of any premises in respect of which relief is granted under this section has been reduced since the fourth day of September, nineteen hundred and thirty-nine, the amount of the relief shall be what it would have been if that value had not been so reduced, less the amount by which the duty is diminished in consequence of the reduction of that value.
- (4) This section shall have effect, subject to the next succeeding subsection, in relation to licences granted for a year beginning in the year nineteen hundred and forty-two or granted for any later year at the beginning of which the Emergency Powers (Defence) Act, 1939, is still in force.
- (5) This section shall not have effect in relation to a licence granted in respect of any such licensed hotel or restaurant premises as are mentioned in section forty-five of the Finance (1909-10) Act, 1910, or in relation to a licence granted for any year if section eleven of this Act has effect in relation to the duty on the licence for that year:

Provided that, where under the proviso to subsection (1) of the said section eleven the relief allowable under that section is related to a part only of that year, this section shall have effect but the relief allowable thereunder shall be reduced by an amount bearing to the full relief the same proportion as that part of that year bears to the whole of that year.

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15 Postponement of instalments of monopoly value payments on annual licences where business discontinued owing to war circumstances.

(1) Where—

- (a) a justices' on-licence granted as an annual licence is in force as respects any premises, and a condition attached to the licence requires the making of payments on any specified dates for securing monopoly value ; and
- (b) the business carried on in the premises is temporarily discontinued by reason of war circumstances,

the Commissioners may direct that any of the payments shall not be payable until such later date as may be specified in the direction, and where such a direction is given the conditions attached to the licence shall have effect accordingly.

(2) A direction given under this section may specify different dates for different parts of any payment.

16 Repeal of s. 14 of Excise Licenses Act, 1825.

It is hereby declared that section fourteen of the Excise Licences Act, 1825 (which provided that no excise on-licence for the sale of spirits or sweets should be granted except to holders of excise on-licences for the sale of beer) does not apply, and never has applied, to any of the licences charged with duty under Part II of the Finance (1909-10) Act, 1910, and the said section fourteen is hereby expressly repealed.