

SCHEDULES.

SIXTH SCHEDULE

Section 10.

PART I

PROVISIONS AS TO JUSTICES' LICENCES IN SUSPENSE BY REASON OF WAR CIRCUMSTANCES.

Restoration to full force of licences in suspense.

- 1 Subject to the provisions of the next succeeding paragraph as to on-licences in cases in which it is certified that the war circumstances included the destruction of the premises or serious damage thereto, where after the passing of this Act the holder of a licence for the time being in suspense desires to resume the business carried on in the premises in respect of which it was granted, he may give notice in writing to that effect to the clerk of the licensing justices, and from the time of his giving such notice the licence shall be in force for all purposes.
- 2 In such a case as aforesaid, before a notice for the purposes of the preceding paragraph is given as respects an on-licence plans of such works as are reasonably necessary to secure the proper conduct of the business must have been submitted to the licensing justices and approved by them, and the licensing justices must have signified their satisfaction that the works have been executed in accordance with the plans approved.
- 3 Where a licence is deemed to have been in suspense but the business carried on in the premises in respect of which it was granted has been resumed before the passing of this Act, the licence shall be deemed to have been in force for all purposes from the time of the resumption of the business, unless it had previously been forfeited or become void under the Licensing Act.
- 4 Where a removal of a licence for the time being in suspense is or has been authorised, it shall be, and be deemed to have been, in force for all purposes from the time of the authorisation of the removal.
- 5 A licence in force for all purposes after being in suspense shall, unless previously forfeited or becoming void under the Licensing Act, be, and be deemed to have been, in force until the fifth day of April next following the first general annual licensing meeting after the time when it ceased to be in suspense, or, in the case of a licence granted for a term, next following the expiration of a period beginning on the last day of that term equal to the period of its suspension, and no longer.

Extinguishment of licences remaining in suspense when suspension no longer justified.

- 6 Where the licensing justices are satisfied as respects any licence which is for the time being in suspense that there are no longer any war circumstances which justify its continuing to be in suspense, they may by order direct that it shall be extinguished at the expiration of such period as may be specified in the order unless it is again in

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force for all purposes by virtue of the preceding provisions of this Schedule before the expiration of that period.

7 If His Majesty by Order in Council declares that there are in general no longer any war circumstances which justify licences continuing to be in suspense, every licence in suspense at the date of the Order in Council shall be extinguished at the expiration of such period as may be specified therein unless it is again in force for all purposes by virtue of the preceding provisions of this Schedule before the expiration of that period.

8 The licensing justices may, if application is made to them in that behalf, extend the period specified in an order made by them under paragraph 6 of this Part of this Schedule, or, in relation to any particular licence, the period specified in an Order in Council made under the last preceding paragraph.

*Extinguishment of licences in suspense on grounds of conduct
or fitness, or on reference to the compensation authority.*

9 (1) Objection to the continuance of a licence which is for the time being in suspense may be made at any general annual licensing meeting on grounds relating to the conduct of the holder of the licence or to his fitness to be the holder thereof, and if objection is so made and the licensing justices are satisfied that if the licence had then been in force for all purposes and an application for the renewal thereof had been made at that meeting they would have refused it on those grounds, they may order that the licence shall be extinguished :

Provided that, notwithstanding the making of such an order, a transfer of the licence may be granted on an application made at the meeting at which the order was made or at the first transfer sessions thereafter, and if a transfer thereof is so granted the order shall not have effect.

(2) In relation to an old off-licence or an old on-licence the reference in this paragraph to grounds relating to conduct or fitness of the holder of the licence shall be construed as a reference only to the grounds specified in the Second Part of the First Schedule to the Licensing Act or in the Second Part of the Second Schedule thereto, as the case may be, with the substitution for references therein to the applicant or proposed holder of the licence of references to the holder thereof and for references to the house or shop in respect of which a licence-is sought or the applicant applies of references to the licensed premises:

Provided that, in a case in which it is certified that the war circumstances included the destruction of the premises or serious damage thereto, no regard shall be had for the purposes of this paragraph to the licensed premises' not being duly qualified as by law is required or being structurally deficient or structurally unsuitable.

10 (1) Where the licensing justices are of opinion, in the case of any old on-licence which is in suspense at the time of any general annual licensing meeting, that, if the licence had then been in force for all purposes and an application for the renewal thereof had been made at that meeting, the question of the renewal thereof would have required consideration on grounds other than those on which the renewal of an old on-licence can be refused by them, they shall refer to the compensation authority the question of the extinguishment of the licence together with their report thereon.

(2) The compensation authority shall consider any report so made to them with respect to any licence, and may, if they think it expedient, after giving the persons interested in the licensed premises, and, unless it appears to the compensation authority

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unnecessary, any other persons appearing to them to be interested (including the licensing justices), an opportunity of being heard, extinguish the licence, subject to payment of the like compensation as would have been payable under the Licensing Act if an application for the renewal of the licence had been made, and refused by the compensation authority.

- (3) Sections twenty, twenty-one and forty-seven of the Licensing Act shall have effect with the requisite modifications in relation to the extinguishment of old on-licences under this paragraph as they have effect in relation to the refusal of renewal of such licences by the compensation authority.
- 11 (1) If a discontinuance of business by virtue of which a licence becomes a licence in suspense occurs, or has occurred, between the date of a general annual licensing meeting and the fifth day of April next following and, in proceedings taken in relation to any objection to the renewal of the licence made at that meeting on such grounds as are mentioned in paragraph 9 of this Part of this Schedule, or in relation to any reference to the compensation authority of the question of the renewal of the licence at that meeting, the renewal of the licence is or has been refused, the refusal shall have effect, or be deemed to have had effect, as if it had been an order made under paragraph 9 or paragraph 10, as the case may be, of this Part of this Schedule for the extinguishment of the licence.
- (2) A licence subsisting by virtue of a provisional renewal pending a reference to the compensation authority and becoming a licence in suspense, shall be, or be deemed to have been, extinguished upon a refusal of the renewal by the compensation authority.

Extension of authority to grant transfers in cases of licences in suspense.

- 12 Notwithstanding anything in paragraph (a) of subsection (2) of section twenty-three of the Licensing Act, a transfer of a licence to the owner of the licensed premises or a person applying on his behalf may be authorised—
- (a) in the case of wilful omission or neglect of the holder of the licence to take steps requisite for preventing extinguishment thereof under paragraph 6 or 7 of this Part of this Schedule;
 - (b) in the case of an order being made under paragraph 9 of this Part of this Schedule in relation thereto, or of renewal of the licence being refused in such circumstances as are mentioned in paragraph n thereof on such grounds as are mentioned in the said paragraph 9 ;
 - (c) in the case of forfeiture of the licence, or the personal disqualification of the holder thereof, whilst it is in suspense, in circumstances in which a protection order could have been granted under section eighty-seven of the Licensing Act if the business had not been discontinued; or
 - (d) in the case of occupation of the premises being given up by the holder of the licence or his representatives whilst the licence is in suspense.

Appeal to Quarter Sessions.

- 13 The provisions of sections twenty-nine to thirty-two of the Licensing Act as to appeal against a refusal of licensing justices to grant a renewal of a licence shall have effect with the requisite modifications in relation to a refusal of licensing justices to approve plans submitted to them for the purposes of paragraph 2 of this Part of this Schedule, or to signify their satisfaction as to works having been executed in accordance with plans approved, in relation to an order under paragraph 6 thereof,

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in relation to a refusal of licensing justices to grant an application under paragraph 8 thereof, and in relation to an order under paragraph 9 thereof.

General.

- 14 Any power exercisable by licensing justices under paragraph 2, 6 or 8 of this Part of this Schedule may be exercised at a general annual licensing meeting or at any transfer sessions.
- 15 The Secretary of State may make such rules, prescribe such forms and generally do such things as he thinks expedient for regulating the practice under this Schedule (including the service of documents), and, without prejudice to the generality of this paragraph, rules made thereunder may provide for the payment in respect of such matters as may be specified therein of such fees as may be thereby prescribed.
- 16 In this Part of this Schedule the expression " the Licensing Act " means the Licensing (Consolidation) Act, 1910, and expressions in this Part of this Schedule which are used in that Act have the same meaning as in that Act, and the expression " licence " means a justices' licence.

PART II

PROVISIONS AS TO CERTIFICATES UNDER THE LICENSING (SCOTLAND)
ACTS, 1903 TO 1934, IN SUSPENSE BY REASON OF WAR CIRCUMSTANCES.

Restoration to full force of certificates in suspense.

- 1 Subject to the provisions of the next succeeding paragraph as to certificates for inns and hotels or public houses in cases in which it is certified that the war circumstances included the destruction of the premises or serious damage thereto, where after the passing of this Act the holder of a certificate which is for the time being in suspense desires to resume the business carried on in the premises in respect of which it was granted, he may give notice in writing to that effect to the clerk of the licensing court, and from the time of his giving such notice the certificate shall be in force for all purposes.
- 2 In such a case as aforesaid, before a notice for the purposes of the preceding paragraph is given as respects a certificate for an inn and hotel or a public house, plans of such works as are reasonably necessary to secure the proper conduct of the business must have been submitted to the licensing court and approved by them, and the licensing court must have signified their satisfaction that the works have been executed in accordance with the plans approved.
- 3 Where a certificate is deemed to have been in suspense but the business carried on in the premises in respect of which it was granted has been resumed before the passing of this Act, the certificate shall be deemed to have been in force for all purposes from the time of the resumption of the business unless it had previously been forfeited or become null and void under the Licensing Acts.
- 4 Where a removal of a certificate for the time being in suspense is authorised, it shall be in force for all purposes from the time of the authorisation of the removal, and where the holder of a certificate removal of which has been authorised desires to resume business in the premises specified in the certificate he may give notice in accordance with the foregoing provisions of this Part of this Schedule in like

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manner as if the certificate were still in suspense and the said provisions shall apply accordingly.

- 5 A certificate in force for all purposes after being in suspense shall, unless previously forfeited or becoming null and void under the Licensing Acts, be and be deemed to have been in force until the twenty-eighth day of May next following the first April half yearly meeting of the licensing Court after the time when the certificate ceased to be in suspense.

Extinguishment of certificate remaining in suspense when suspension no longer justified.

- 6 Where the licensing court are satisfied as respects any certificate which is for the time being in suspense that there are no longer any war circumstances which justify its continuing to be in suspense, they may by order direct that it shall be extinguished at the expiration of such period as may be specified in the order unless it is again in force for all purposes by virtue of the preceding provisions of this Part of this Schedule before the expiration of that period.
- 7 If His Majesty by Order in Council declares that there are in general no longer any war circumstances which justify certificates continuing to be in suspense, every certificate in suspense at the date of the Order in Council shall be extinguished at the expiration of such period as may be specified therein unless it is again in force for all purposes by virtue of the preceding provisions of this Part of this Schedule before the expiration of that period.
- 8 The licensing court may, if application is made to them in that behalf, extend the period specified in an order made by them under paragraph 6 of this Part of this Schedule or, in relation to any particular certificate, the period specified in an Order in Council made under the last preceding paragraph.

Renewal of certificates in suspense.

- 9 The provisions of the Licensing Acts with regard to renewal of certificates shall apply with any necessary modifications in relation to certificates which are at any time after the passing of this Act in suspense in like manner as those provisions apply to certificates which are in force for all purposes, and in a case in which it is certified that the war circumstances included the destruction of the premises or serious damage thereto, no regard shall be had for the purposes of this paragraph to the condition of the certificated premises.

Provisions as to removal of certificates.

- 10 (1) Where the premises specified in any certificate which is for the time being in suspense have been destroyed or seriously damaged or have been taken possession of on behalf of His Majesty in the exercise of emergency powers, it shall be lawful for the licensing court to authorise a removal of the certificate from the premises specified therein to other premises within their district (not being premises situated in an area in which a no-licence or a limiting resolution is in force) and where a removal is so authorised the certificate shall have effect as if those premises had been specified in it in lieu of the premises which have been so destroyed or damaged or taken possession of.
- (2) A removal to any premises under this paragraph shall not be authorised unless—

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- (i) the licensing court are satisfied that no reconstruction or alteration of the premises is necessary to secure the proper conduct of the business ; or
 - (ii) plans of such works as are reasonably necessary for the said purpose have been submitted to the licensing court and approved by them and the licensing court have signified their satisfaction that the works have been executed in accordance with the plans approved.
- (3) A removal of a certificate authorised in pursuance of this paragraph shall cease to have effect on notice being given in pursuance of paragraph 4 of this Part of this Schedule.

Appeals.

- 11 The provisions of section twenty-two of the Licensing (Scotland) Act, 1903, as to appeal against a refusal of a licensing court to grant a renewal of a certificate shall have effect with the requisite modifications in relation to a refusal of a licensing court to authorise a removal of a certificate or to approve plans or to signify their satisfaction as to the execution of works under paragraph 2 or paragraph 10 of this Part of this Schedule, and in relation to an order under paragraph 6 of this Part of this Schedule, and in relation to a refusal of a licensing court to grant an application under paragraph 8 thereof, and the provisions of section twenty-one of the said Act shall apply in relation to any appeal in pursuance of this paragraph.

General.

- 12 Any power exercisable by a licensing Court under the provisions of this Schedule may be exercised at a general half yearly meeting or at any adjournment thereof or at another meeting specially convened for the purpose, and the powers conferred by paragraph 2 or 10 of this Part of this Schedule to signify satisfaction of works having been executed in accordance with plans approved may be exercised by any two members of the licensing court nominated by the court for the purpose and any decision by such two members shall be deemed to be a decision of the licensing court.

Interpretation.

- 13 In this Part of this Schedule the expression " the Licensing Acts " means the Licensing (Scotland) Acts, 1903 to 1934, and expressions used in this Part of this Schedule and in those Acts have the same meaning as in those Acts, and the expression " certificate " means a certificate as defined in Part VII of the Licensing (Scotland) Act, 1903.