



Licensing Act 1872

1872 CHAPTER 94

Amendment of Law as to Grant of Licenses

37 Licensing committee of justices in counties.

In counties a grant of a new license shall not be valid unless it is confirmed by a standing committee of the county justices, in this Act called the county licensing committee.

The justices in quarter sessions assembled for every county shall annually appoint from among themselves for the purposes of this Act a county licensing committee, or they may appoint more than one such committee, and assign to any such committee such area of jurisdiction as they may think expedient.

A county licensing committee shall consist of not less than three nor more than twelve members.

The quorum of a county licensing committee shall be three

Any vacancies arising in any such committee from death, resignation, or other causes, may be from time to time filled up by the justices in quarter sessions by whom the committee is appointed.

A county licensing committee shall be deemed to be a standing committee of the quarter sessions by whom they are appointed for the year succeeding their appointment, and their jurisdiction and proceedings shall not be affected by the termination of the sessions at which they were appointed. The members of a committee retiring at the end of the year may be re-appointed; and if from any cause members have not been appointed in any year to succeed the retiring members, such retiring members may continue to act as the committee until their successors are

The justices in quarter sessions shall make such regulations with respect to the meetings of any such committee and the transaction of business thereat as they may think fit.

The clerk of the peace of the county shall by himself or his deputy be the clerk of the county licensing committee or committees, and shall perform all such duties in

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relation to any such committee or committees as he is required by law to perform in relation to the justices in quarter sessions assembled.

Provided that so far as respects any new licenses to be granted in any county at any general annual licensing meeting, or any adjournment thereof held between the twentieth of August and the end of September in the year one thousand eight hundred and seventy-two, the justices of such county may, at any adjourned quarter sessions or general sessions (if they think fit to hold a general sessions), at any time before the first day of October one thousand eight hundred and seventy-two, appoint a county licensing committee, but if no such licensing committee be appointed before such date as last aforesaid the justices of the county in quarter sessions assembled shall be deemed to be the county licensing committee for the purpose of any new license granted at such annual licensing meeting; and any such new license, if confirmed by the county licensing committee or by the said justices in quarter sessions, shall be in force from the day of the confirmation thereof until the eleventh day of October one thousand eight hundred and seventy-three.

38 Licensing committee of justices in boroughs.

In boroughs in which at the commencement of the time appointed for the annual appointment of a licensing committee in this section mentioned there are ten justices acting in and for such borough or upwards, new licenses shall be granted by a committee, who shall for the purpose of such new licenses perform all the duties and be subject to the obligations of licensing justices.

In every such borough as aforesaid the justices acting in and for such borough shall annually in the fortnight preceding the commencement of the period during which the general annual licensing meeting for such borough may be held appoint from among themselves for the purposes of this Act a committee of not less than three nor more than seven in number, but no justice shall be appointed a member of such committee unless he is qualified to act under this Act.

Any vacancies arising in such committee (in this Act referred to as the borough licensing committee) from death, resignation, or other causes, may be from time to time filled up by the justices by whom the committee is appointed.

The quorum of a borough licensing committee shall be three members.

The members of the borough licensing committee retiring at the end of the year may be re-appointed; and if from any cause members have not been appointed in any year to succeed the retiring members, such retiring members may continue to act as the borough licensing committee until their successors are appointed.

The grant of a new license by a borough licensing committee shall not be valid unless it is confirmed by the whole body of borough justices, who would, if this Act had not passed, have been authorised to grant licenses, or by a majority of such body present at any meeting assembled for the purpose of confirming such licenses.

In boroughs in which there are not ten justices acting in and for such borough at such time as aforesaid, new licenses shall be granted by the qualified borough justices, but the grant of a new license by such justices shall not be valid unless it is confirmed by a joint committee appointed in respect of such borough in manner hereinafter mentioned:

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A joint committee for any such borough as last aforesaid shall consist of three justices of the county in which such borough is situate and three justices of the borough, but no justice shall be appointed a member of such committee unless he is qualified to act under this Act. The three county justices on a joint committee shall be appointed by the county licensing committee. The same county justices may be appointed members of more than one joint committee under this section. The borough justices on a joint committee shall be appointed by the justices of the borough for which they act, or by the majority of such justices assembled at any meeting held for that purpose. Any casual vacancy arising in the joint committee from death, resignation, or other cause, may from time to time be filled up by the justices by whom the person creating such vacancy was appointed. The quorum of the joint committee shall be five members. The senior magistrate on the joint committee present at any meeting shall be its chairman ; and in the event of an equal division of the committee the chairman shall have a second vote:

Provided that so far as respects any new licenses to be granted in any borough at any general annual licensing meeting, or any adjournment thereof, held between the twentieth of August and the end of September in the year one thousand eight hundred and seventy-two, the following enactments shall take effect:

1. If no licensing committee has been appointed in the county in which a borough is situate for which a joint committee is required to be appointed by this Act, the county members of the joint committee shall be appointed by the justices in quarter sessions assembled, and in any such borough as last aforesaid any new license, if confirmed by the joint committee, shall be in force from the date of the confirmation thereof until the eleventh day of October one thousand eight hundred and seventy-three:
2. All notices and ministerial acts given or done in relation to the grant of such licenses shall be valid, notwithstanding such notices may be given or acts be done before the appointment of a borough licensing committee, and the borough justices may appoint a time at which the borough licensing committee will be prepared to grant new licenses.

No objection shall be made to any licenses granted or confirmed in pursuance of this section on the ground that the justices or committee of justices who granted or confirmed the same were not qualified to make such grant or confirmation.

From and after the passing of this Act, the justices of a county shall not for licensing purposes, save in so far as respects the power of appointing members of a joint committee, have any jurisdiction in a borough in which the borough justices have for such purposes concurrent jurisdiction.

39 Stipendiary magistrates may act as licensing justices.

Beyond the limits of, the jurisdiction of the metropolitan police courts a metropolitan police or stipendiary magistrate may act as one of the justices empowered to grant or confirm licenses so far as regards any licensing district wholly or partly within his jurisdiction.

40 Regulations as to new licenses and transfer of licenses.

Every person intending to apply for a new license, or to apply for the transfer of a license, shall publish notice of such application as follows; that is to say,

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- (1) In the case of a new license, he shall cause notice thereof to be given and to be affixed and maintained in manner directed by section seven of "The Wine and Beerhouse Act, 1869," and any enactment amending the same, and shall advertise such notice in some paper circulating in the place in which the premises to which the notice relates are situate, on some day not more than four and not less than two weeks before the proposed application, and on such day or days, if any, as may be from time to time fixed by the licensing justices :
- (2) In the case of the transfer of a license he shall, fourteen days prior to one of the special sessions appointed by the justices for granting transfers of such licenses, serve a notice of his intention to transfer the same upon one of the overseers of the parish, township, or place in which the premises in respect of which his application is to be made are situate, and on the superintendent of police of the district. This notice shall be signed by the applicant or by his authorised agent, and shall set forth the name of the person to whom it is intended that such license shall be transferred, together with the place of his residence, and his trade or calling during the six months preceding the time of serving such notice :
- (3) Any license may be authenticated in manner in which a certificate may be authenticated in pursuance of sub-section two of section four of " The Wine and Beerhouse Act Amendment Act, 1870," and the provisions of the said sub-section shall apply accordingly.

Provided that, notwithstanding anything in this Act contained, notices in respect of all applications for new licenses to be granted at any general annual licensing meeting or adjournment thereof held between the twentieth of August and the end of September in the year one thousand eight hundred and seventy-two shall be given as if this Act had not passed. The provisions of this section as to notices shall extend to all cases where, under the Intoxicating Liquors Act, 1828, notices are required to be served in a like form to or in the same manner as notices for new licenses.

41 Amendment of 5 & 6 Vict. c.44, with respect to licenses wilfully withheld.

Whereas by the second section of the Act of the session of the fifth and sixth years of the reign of Her present Majesty, chapter forty-four, the magistrates or justices in petty sessions are empowered in the event of a license being lost or mislaid to receive a copy of such license, and to deal therewith in manner in the said section mentioned : And whereas it is expedient to extend the power of such magistrates or justices, to the reception of a copy of a license in the event of a license being wilfully withheld by the holder thereof: Be it enacted, that such section be construed as if after the words "lost or mislaid," there were inserted the words " or if " the application is for the grant of a license, has been wilfully " withheld by the holder thereof."

42 Provisions as to renewal of licenses.

Where a licensed person applies for the renewal of his license the following provisions shall have effect:

- (1) He need not attend in person at the general annual licensing meeting, unless he is required by the licensing justices so to attend:
- (2) The justices shall not entertain any objection to the renewal of such license, or take any evidence with respect to the renewal thereof, unless written notice of an intention to

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oppose the renewal of such license has been served on such holder not less than seven days before the commencement of the general annual licensing meeting: Provided that the licensing justices may, notwithstanding that no notice has been given, on an objection being made, adjourn the granting of any license to a future day, and require the attendance of the holder of the license on such day, when the case will be heard and the objection considered, as if the notice herein-before prescribed had been given:

- (3) The justices shall not receive any evidence with respect to the renewal of such license which is not given on oath.

Subject as aforesaid, licenses shall be renewed and the powers and discretion of justices relative to such renewal shall be exercised as heretofore.

43 Confirmation of licenses.

Any person who appears before the licensing justices and opposes the grant of a new license, and no other person, may appear and oppose the confirmation of such grant by the confirming authority in counties or boroughs; and the confirming authority may award such costs as they shall deem just to the party who shall succeed in the proceedings before them. In a county the justices in quarter sessions assembled, and in a borough the borough justices, shall make rules as to the proceedings to be adopted for confirmation of new licenses and the costs to be incurred in any such proceedings, and the person by whom such costs are to be paid.

44 Disqualifications for licenses.

No license shall be granted under the Intoxicating Liquor Licensing Acts to any person or "in respect of any premises declared by or in pursuance of any of the Intoxicating Liquor Licensing Acts or this Act to be disqualified persons or disqualified premises during the continuance of such disqualification. Any license held by any person so disqualified, or attached to premises so disqualified, shall be void.

45 Qualification of premises for licenses.

Premises to which at the time of the passing of this Act no license under the Acts recited in the Wine and Beerhouse Act, 1869, authorising the sale of beer or wine for consumption thereupon is attached, shall not be subject to any of the provisions now in force prescribing a certain rent or value or rating as a qualification for receiving any such

Premises not at the time of the passing of this Act licensed for the sale of any intoxicating liquor for consumption there upon shall not be qualified to receive a license authorising such sale unless the following conditions are satisfied:

- (a) The premises, unless such premises are a railway refreshment room, shall be of not less than the following annual value :

If situated within the city of London or the liberties thereof, or any parish or place subject to the jurisdiction of the Metropolitan Board of Works, or within the four mile radius from Charing Cross, or within the limits of a town containing a population of not less than one hundred thousand inhabitants, fifty pounds per annum; or if the license do not authorise the sale of spirits, thirty pounds per annum :

If situated elsewhere and within the limits of a town containing a population of not less than ten thousand inhabitants, thirty pounds per

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annum; or if the license do not authorise the sale of spirits, twenty pounds per annum:

If situated elsewhere and not within any such town as above mentioned, fifteen pounds per annum; or if the license do not authorise the sale of spirits, twelve pounds per annum:

- (b) The premises shall be, in the opinion of the licensing authority, structurally adapted to the class of license for which a certificate is sought: Provided that no house, not licensed at the time of the passing of this Act for the sale of any intoxicating liquor for consumption on the premises, shall be qualified to have a license attached thereto authorising such sale, unless such house shall contain, exclusive of the rooms occupied by the inmates of such house, if the license authorise the sale of spirits, two rooms, and if the license do not authorise the sale of spirits, one room, for the accommodation of the public.

46 Annual value necessary for obtaining grant of license.

Whereas in certain cases a license under the Wine and Beerhouse Acts, 1869 and 1870, is not to be granted unless the house and premises in respect of which such license is granted are of such rent and value or are rated to the poor rate on a rent or annual value of such amount as is respectively in that behalf stated in the Acts recited in the Wine and Beerhouse Act, 1869 ; and it is expedient to substitute in such cases " annual value " for the said rent, value, or rating, and to provide for the ascertaining the annual value of such house and premises : Be it therefore enacted that in cases not provided for by the last preceding section—

A license under the Wine and Beerhouse Acts, 1869 and 1870, shall not be granted in respect of any premises which are not, in the opinion of the licensing justices who grant such license, of such annual value as is mentioned in that behalf in the Acts recited by the Wine and Beerhouse Act, 1869 ; and those Acts shall be construed as if " annual value " were therein substituted for " rent, " "value," "rated on a rent or annual value," and other like

If at the first general annual licensing meeting after the passing of this Act the licensing justices are of opinion that any premises which are licensed for the sale of intoxicating liquors at the passing of this Act are not of such annual value as authorises the grant of a license for such premises, they may, notwithstanding, renew such license upon the condition, to be expressed in the license, that the holder thereof, before the next general annual licensing meeting, improves the premises so as to make them of sufficient annual value, and if the holder fail to comply with such condition the license shall not be renewed at such next general annual licensing meeting.

47 Mode of ascertaining annual value.

The licensing justices shall take such means as may seem to them best for ascertaining the annual value of any premises for the purposes of this Act, and may, if they think fit, order a valuation to be made of such premises by a competent person appointed by them for the purpose, and may order the costs of such valuation to be paid by the applicant for a license.

The annual value of premises for the purposes of this Act shall be the annual rent which a tenant might be reasonably expected, taking one year with another, to pay for the same, if he undertook to pay all tenant's rates and taxes, and tithe commutation rentcharge (if any), and if the landlord undertook to bear the cost of the repairs and

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insurance and other expenses (if any) necessary to maintain the premises in a state to command the said rent, and if no license were granted in respect thereof; but no land shall be included in such premises other than any pleasure grounds or flower or kitchen garden, yard, or curtilage usually held and occupied and used by the persons residing in and frequenting the house.

48 Regulations as to form of licenses.

The following regulations shall be made with respect to licenses:

- (1) Every license granted after the commencement of this Act shall be in such form as may from time to time be prescribed by a Secretary of State : Provided that licenses granted at any general annual licensing meeting or adjournment thereof between the twentieth of August and the end of September one thousand eight hundred and seventy-two shall be in the forms heretofore in use, but any conditions contained in any license so granted which are contrary to the provisions of this Act shall be of no effect:
- (2) A renewal of a license may be made by an endorsement on the license, or by the issue of a copy of the old license, but in the latter case there shall be endorsed on such copy all convictions made within the previous five years which are endorsed on the old license.

The Commissioners of Inland Revenue may alter the form of any license granted by them for the sale of intoxicating liquors, in such manner as they may think expedient, for the purposes of bringing such form into conformity with the law for the time being in force.

49 Provisions as to six-day licenses.

Where on the occasion of an application for a new license or transfer or renewal of a license which authorises the sale of any-intoxicating liquor for consumption on the premises, the applicant, at the time of his application, applies to the licensing justices to insert in his license a condition that he shall keep the premises in respect of which such license is or is to be granted closed during the whole of Sunday, the justices shall insert the said condition in such license.

The holder of a license in which such condition is inserted (in this Act referred to as a six-day license) shall keep his premises closed during the whole of Sunday, and, the provisions of this Act with respect to the closing of licensed premises during certain hours on Sunday shall apply to the premises in respect of which a six-day license is granted as if the whole of Sunday were mentioned in those provisions instead of certain hours only.

The holder of a six-day license may obtain from the Commissioners of Inland Revenue any license granted by such commissioners, which he is entitled to obtain in pursuance of such six-day license, upon payment of six seventh parts of the duty which would otherwise be payable by him for a similar license not limited to six days; and if he sell any intoxicating liquor on Sunday he shall be deemed to be selling intoxicating liquor without a license.

The notice which a licensed person is required to keep painted or fixed on his premises shall, in the case of a license under this section, contain words indicating that such license is for six days only, In calculating the amount to be paid for a six-day license any fraction of a penny shall be disregarded.

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50 Licenses may be removed from one part of a district to another, &c.

Licenses may be removed from one part of a licensing district to another part of the same district, or from one licensing district to another licensing district within the same county, in manner following:

The application for an order sanctioning removal shall be made by the person desiring to be the holder of the license when removed, and shall be made at a general annual licensing meeting, or any adjournment thereof, to the justices authorised to grant new licenses in the licensing district in which the premises are situated to which the license is to be

Notice of the intended application shall be given in the same manner as notice is given of an application for the grant of a new license.

A copy of the notice shall be personally served upon or sent by registered letter to the owner of the premises from which the license is to be removed, and the holder of the license, unless he is also the applicant.

The justices to whom the application is made shall not make an order sanctioning such removal unless they are satisfied that no objection to such removal is made by the owner of the premises to which the license is attached, or by the holder of the license, or by any other person whom such justices shall determine to have a right to object to the removal.

Subject as aforesaid, such justices shall have the same power to make an order sanctioning such removal as they have to grant new licenses; but no such order shall be valid unless confirmed by the confirming authority of the licensing district.