



Licensing Act 1872

1872 CHAPTER 94

Legal Proceedings

51 Summary proceedings for offences under this Act, &c.

Except as in this Act otherwise expressly provided, every offence under this Act may be prosecuted, and every penalty and forfeiture may be recovered and enforced, in manner provided by the Summary Jurisdiction Act, 1848, subject to the following provisions:

- (1) The court of summary jurisdiction, when hearing and determining an information or complaint, other than in a case where the offence charged is that of being found drunk in any highway or other public place, or any licensed premises, shall be constituted either of two or more justices of the peace in petty sessions sitting at a place appointed for holding petty sessions, or of a stipendiary magistrate, or some other officer for the time being empowered by law to do alone any act authorised to be done by more than one justice of the peace, and sitting alone or with others at some court or other place appointed for the administration of justice:
- (2) Where the court of summary jurisdiction orders that a distress shall be made in default of payment of any penal sum exceeding five pounds, including under that expression costs actually adjudged in respect of an offence, the court may order that in default of the said sum being paid as directed, the person liable to pay the same shall be imprisoned for any term not exceeding the period specified in the following scale:
 - For any sum exceeding five pounds but not exceeding ten pounds, three months;
 - For any sum exceeding ten pounds but not exceeding thirty pounds, four months ;
 - For any sum exceeding thirty pounds but not exceeding fifty pounds, six months ;
 - For any sum exceeding fifty pounds, one year:
- (3) The description of any offence under this Act in the words of such Act, or in similar words, shall be sufficient in law:
- (4) Any exception, exemption, proviso, excuse, or qualification, whether it does or does not accompany the description of the offence in this Act, may be proved by the defendant, but need not be specified or negatived in the information, and if so specified

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or negatived, no proof in relation to the matters so specified or negatived shall be required on the part of the informant or complainant; and in all cases of summary proceedings under this Act, the defendant and his wife shall be competent to give evidence :

- (5) All forfeitures shall be sold or otherwise disposed of in such manner as the court may direct, and the proceeds of such sale or disposal (if any) shall be applied in the like manner as penalties, but the court may direct that such proceeds may be applied in the first instance in paying the expenses of and incidental to any search and seizure which resulted in such forfeiture:
- (6) Penalties and forfeitures under this Act shall not, for the purpose of any Act respecting the application of such penalties, or the costs, charges, and expenses attending proceedings for recovery of such penalties or of forfeitures, be deemed to be penalties or forfeitures under any Act relating to the Inland Revenue.

Any officer appointed by the Commissioners of Inland Revenue may sue for any penalties under this Act, and when so sued for any penalties which may be recovered shall be applied in the manner in which excise penalties are for the time being applicable by law.

Where under this Act any sum for costs (other than costs upon a conviction or order of dismissal of an information) or for compensation, or both, is ordered or awarded to be paid by any person, the amount thereof shall be recovered in manner directed by "The Summary Jurisdiction Act, 1848," for the recovery of costs awarded upon the dismissal of an information or complaint.

52 Appeal to quarter sessions.

If any person feels aggrieved by any order or conviction made by a court of summary jurisdiction, the person so aggrieved may appeal therefrom, subject to the conditions and regulations following :

- (1) The appeal shall be made to the next court of quarter sessions for the county or place in which the cause of appeal has arisen, holden not less than fifteen days after the decision of the court from which the appeal is made;
- (2) The appellant shall, within seven days after the cause of appeal has arisen, give notice to the other party and to the court of summary jurisdiction of his intention to appeal, and of the ground thereof:
- (3) The appellant, immediately after such notice, shall enter into a recognizance before a justice of the peace, with two sufficient sureties, conditioned personally to try such appeal, and to abide the judgment of the court thereon, and to pay such costs as may be awarded by the court, or shall give such other security by deposit of money or otherwise as the justice may allow:
- (4) Where the appellant is in custody the justice may, if he think fit, on the appellant entering into such recognizance or giving such other security as aforesaid, release him from custody:
- (5) The court of appeal may adjourn the appeal, and upon the hearing thereof may confirm, reverse, or modify the decision of the court of summary jurisdiction, or remit the matter to the court of summary jurisdiction with the opinion of the court of appeal thereon, or make such other order in the matter as the court thinks just. The court of appeal may also make such order as to costs to be paid by either party as the court thinks just.

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53 Continuance of license during pendency of appeal against justices refusal to renew.

"Where the justices refuse to renew a license, and an appeal against such refusal is duly made, and such license expires before the appeal is determined, the Commissioners of Inland Revenue may, by order, permit the person whose license is refused to carry on his business during the pendency of the appeal upon such conditions as they think just; and, subject to such conditions, any person so permitted may, during the continuance of such order, carry on his business in the same manner as if the renewal of the license had not been

Where a license is forfeited on or in pursuance of a conviction for an offence, and an appeal is duly made against such conviction, the court by whom the conviction was made may, by order, grant a temporary license to be in force during the pendency of the appeal upon such conditions as they think just.

54 Conviction, &c. not to be quashed for want of form, or removed by certiorari.

No conviction or order made in pursuance of this Act, originally or on appeal, relative to any offence, penalty, forfeiture, or summary order, shall be quashed for want of form, or, if made by a court of summary jurisdiction, be removed by certiorari or otherwise, either at the instance of the Crown or of any private party, into any superior court. Moreover, no warrant of commitment in any such matter shall be held void by reason of any defect therein, provided that there is a valid conviction to maintain such warrant, and it is alleged in the warrant that the party has been convicted.

55 As to record of convictions of licensed persons for offences under Act.

With respect to the record of convictions of licensed persons for offences under this Act committed by them as such, the following provisions shall have effect in cases where this Act requires the conviction to be recorded on the license; that is to say,

- (1) The court before whom any licensed person is accused shall require such person to produce and deliver to the clerk of the court the license under which such person carries on business, and the summons shall state that such production will be required:
- (2) If such person is convicted, the court shall cause the short particulars of such conviction, and the penalty imposed, to be endorsed on his license before it is returned to the offender:
- (3) The clerk to the licensing justices shall enter the particulars respecting such conviction, or such of them as the case may require, in the register of licenses, kept by him under this Act:
- (4) If the clerk to the court be not the clerk to the licensing justices, he shall send forthwith to the last-mentioned clerk notice of such conviction, and of the particulars thereof :
- (5) Where the conviction of any such person has the effect of forfeiting the license, or of disqualifying any person or premises for the purposes of this Act, the license shall be retained by the clerk of the court, and notice of such forfeiture and disqualification shall be sent to the licensing officer of the district, and if the clerk to the court is not the clerk to the licensing justices to such last-mentioned clerk, together with the forfeited license.

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56 For protection of owners of licensed premises in cases of offences committed by tenants.

Where any tenant of any licensed premises is convicted of an offence against this Act, and such offence is one the repetition of which may render the premises liable to be disqualified from receiving a license for any period, it shall be the duty of the clerk of the licensing justices to serve, in manner provided by this Act, notice of every such conviction on the owner of the

Where any order of a court of summary jurisdiction declaring any licensed premises to be disqualified from receiving a license for any period has been made, the court shall cause such order to be served on the owner of such premises, where the owner is not the occupier, with the addition of a statement that the court will hold a petty sessions at a time and place therein specified, at which the owner may appear and appeal against such order on all or any of the following grounds, but on no other grounds :

- (a) That notice, as required by this Act, has not been served on the owner of a prior offence which on repetition renders the premises liable to be disqualified from receiving a license at any period; or
- (b) That the tenant by whom the offence was committed held under a contract made prior to the commencement of this Act, and that the owner could not legally have evicted the tenant in the interval between the commission of the offence, in respect of which the disqualifying order was made, and the receipt by him of the notice of the immediately preceding offence which on repetition renders the premises liable to be disqualified, from receiving a license at any period; or
- (c) That the offence in respect of which the disqualifying order was made occurred so soon after the receipt of such last-mentioned notice that the owner, notwithstanding he had legal power to evict the tenant, could not with reasonable diligence have exercised that power in the interval which occurred between the said notice and the second offence.

If the owner appear at the time and place specified, and at such sessions, or any adjournment thereof, satisfy the court that he is entitled to have the order cancelled on any of the grounds aforesaid, the court shall thereupon direct such order to be cancelled, and the same shall be

In a county the justices in quarter sessions assembled, and in a borough the borough justices, shall make rules in pursuance of which any person other than the owner interested in any licensed premises as mortgagee or otherwise shall be entitled on payment of such sum as may be specified in such rules to receive from the clerk to the licensing justices a similar notice to that which an owner of such premises is entitled to receive under this Act.

57 As to conviction of licensed persons of more than one offence on same day.

Where a licensed person is convicted of more offences than one committed on the same day, the convictions for which are by this Act directed to be recorded on his license, the court by whom he is convicted may, in their discretion, order that one or some only of such convictions shall be so recorded.

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58 Evidence of endorsements and register.

The registers of licenses kept in pursuance of this Act shall be receivable in evidence of the matters required by this Act to be entered therein. Every endorsement upon a license, and every copy of an entry made in the registers of licenses in pursuance of this Act, purporting to be signed by the clerk to the licensing justices and (in the case of a copy) to be certified to be a true copy, shall be evidence of the matters stated in such endorsement and entry, without proof of the signature or authority of the person signing the same.

59 Saving for indictments, &c. under other Acts.

Nothing in this Act shall prevent any person from being liable to be indicted or punished under any other Act, or otherwise, so that he be not punished twice for the same offence.