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STATUTORY INSTRUMENTS

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**1996 No. 977**

**DEREGULATION**

**The Deregulation (Special Hours Certificates) Order 1996**

*Made - - - - 25th March 1996*

*Coming into force in accordance with article 1*

Whereas—

- (a) the Secretary of State is of opinion that certain provisions of the Licensing Act 1964(1) impose burdens affecting persons in the carrying on of a trade, business, profession or otherwise and that by amending the provisions concerned it is possible to remove or reduce the burdens without removing any necessary protection;
- (b) the Secretary of State has consulted such organisation as appear to him to be representative of interests substantially affected by his proposals and such other persons as he considers appropriate;
- (c) it appears to the Secretary of State that it is appropriate, following that consultation, to proceed with the making of this Order;
- (d) a document setting out the Secretary of State's proposals has been laid before Parliament in accordance with section 3 of the Deregulation and Contracting Out Act 1994(2) and the period for parliamentary consideration under section 4 of that Act has expired;
- (e) the Secretary of State has had regard to representations made during the period;
- (f) a draft of this Order has been laid before Parliament with a Statement giving details of such representations and the changes to the Secretary of State's proposals in the light of those representations;
- (g) a draft of this Order has been approved by resolution of each House of Parliament:

Now, therefore, the Secretary of State, in exercise of the powers conferred upon him by section 1 of the Deregulation and Contracting Out Act 1994, hereby makes the following Order:

**Citation, Commencement and Extent**

1.—(1) This Order may be cited as the Deregulation (Special Hours Certificates) Order 1996.

(2) This article and article 2 below shall come into force on the day after the day on which the Order is made; the remaining provisions of the Order shall come into force on 1st May 1996.

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(1) 1964 c. 26.  
(2) 1994 c. 40.

- (3) This Order does not extend to Scotland or Northern Ireland.

### **Special Hours Certificates and Summer Time**

2.—(1) Section 76 of the Licensing Act 1964 (permitted hours where special hours certificate in force) shall be amended as follows.

- (2) After subsection (2) there shall be inserted—

“(2A) In relation to the morning on which summer time begins, subsection (2) of this section shall have effect—

- (a) with the substitution of references to three o'clock in the morning for references to two o'clock in the morning; and
- (b) where the permitted hours in any premises or part of premises extend to a time between one o'clock and two o'clock in the morning by virtue of a limitation in the special hours certificate imposed pursuant to section 78A or 81A of this Act, as if the permitted hours extended to one hour after that specified in the certificate.”.

(3) In subsection (3) (which modifies subsection (2) in relation to premises in London outside the City)—

- (a) after “effect” there shall be inserted—

“(a) except in relation to the morning on which summer time begins,”and

- (b) at the end there shall be inserted

“, and

- (b) in relation to that morning, with the substitution of references to four o'clock in the morning for the references to two o'clock in the morning.”.

- (4) At the end there shall be inserted—

“(8) In this section, references to summer time are to the period of summer time for the purposes of the Summer Time Act 1972.”

### **Provisional grant of Special Hours Certificates by Licensing Justices**

3. After section 77 of the Licensing Act 1964 there shall be inserted—

#### **“Provisional grant of special hours certificates by licensing justices**

77A.—(1) Where, on an application made by a person interested in any premises of in respect of which a grant or provisional grant of a justices' licence has been made and which are to be, or are in the course of being, constructed, altered or extended, the licensing justices are satisfied—

- (a) that a music and dancing licence is in force for the premises, and
- (b) that the whole or any part of the premises is intended to be used, and, if completed in accordance with plans deposited with the licensing justices, will be structurally adapted, for the purpose of providing for persons resorting to the premises, music and dancing and substantial refreshment to which the sale of intoxicating liquor is ancillary,

the licensing justices may make a provisional grant, with or without limitations, of a special hours certificate for the premises or, if they are satisfied that part only of the premises is intended to be used or will be adapted as mentioned in paragraph (b) of this subsection, for that part.

(2) Where a special hours certificate has been granted under subsection (1) of this section, the licensing justices may, on application by the person who applied for the certificate, consent to any modification of the deposited plans if, in their opinion, the premises to which the certificate relates will, if completed in accordance with the modified plans, be structurally adapted for the purpose mentioned in paragraph (b) of that subsection.

(3) Where a special hours certificate has been granted under subsection (1) of this section, the licensing justices shall, after such notice has been given as they may require, declare the provisional grant final on being satisfied, in relation to the premises to which the certificate relates—

- (c) that they are, or are part of, licensed premises;
- (d) that they are, or are part of, premises for which a music and dancing licence is in force; and
- (e) that they have been completed in accordance with the deposited plans.

(4) Until a provisional grant under subsection (1) of this section has been declared final under subsection (3) of this section, the certificate to which the provisional grant relates shall not be valid.

(5) Where licensing justices—

- (a) refuse to make a provisional grant of a special hours certificate;
- (b) make a provisional grant of such a certificate with limitations;
- (c) refuse to declare a provisional grant of such a certificate final; or
- (d) refuse to give consent, on the application of the person who applied for the certificate, to any modification of the deposited plans,

they shall specify in writing to the applicant their reasons for doing so.

(6) In subsection (1) of this section, references to premises for which a music and dancing licence is in force include premises for which a person holds a music and dancing licence which is subject to a condition that it shall be of no effect until confirmed.

(7) In this section and sections 78ZA and 81B(3) of this Act—

- (a) “deposited plans”, in relation to a special hours certificate, means the plans deposited in connection with the application for the certificate; and
- (b) references to completion in accordance with the deposited plans are, where any modification of those plans has been consented to under subsection (2) of this section or section 78ZA(2) of this Act, to completion in accordance with those plans with that modification.”.

#### **Provisional grant of Special Hours Certificate by Magistrates' Courts**

4. After section 78 of the Licensing Act 1964 there shall be inserted—

##### **“Provisional grant of Special Hours Certificates by Magistrates' Court**

**78ZA.**—(1) Where, on an application made to the magistrates' court with respect to premises in respect of which a club is or is to be registered and which are to be, or are in the course of being altered or extended, the court is satisfied—

- (a) that a certificate granted under section 79 of this Act is in force for the premises; and

- (b) that the whole or any part of the premises is intended to be used, and, if completed in accordance with plans deposited with the court, will be structurally adapted, for the purpose of providing for the members of the club music and dancing and substantial refreshment to which the supply of intoxicating liquor is ancillary,

the court may make a provisional grant, with or without limitations, of a special hours certificate for the premises or, if the court is satisfied that part only of the premises is intended to be used or will be adapted as mentioned in paragraph (b) of this subsection, for that part.

(2) Where a special hours certificate has been granted under subsection (1) of this section, the magistrates' court may, on application by the person who applied for the certificate, consent to any modification of the deposited plans if, in its opinion, the premises to which the certificate relates will, if completed in accordance with the modified plans, be structurally adapted for the purpose mentioned in paragraph (b) of that subsection.

(3) Where a special hours certificate has been granted under subsection (1) of this section, the magistrates' court shall, after such notice has been given as it may require, declare the provisional grant final on being satisfied, in relation to the premises to which the certificate relates—

- (a) that they are, or are part of, premises in respect of which a club is or is to be registered;
- (b) that they are, or are part of, premises for which a certificate granted under section 79 of this Act is in force; and
- (c) that the premises have been completed in accordance with the deposited plans.

(4) Until a provisional grant under subsection (1) of this section has been declared final under subsection (3) of this section, the certificate to which the provisional grant relates shall not be valid.

(5) Where a magistrates' court—

- (a) refuses to make a provisional grant of a special hours certificate;
- (b) makes a provisional grant of such a certificate with limitations;
- (c) refuses to declare a provisional grant of such a certificate final; or
- (d) refuses to give consent, on the application of the person who applied for the certificate, to any modification of the deposited plans,

it shall specify in writing to the applicant its reasons for doing so.”.

#### **Consequential amendments to the Licensing Act 1964**

5.—(1) The Licensing Act 1964 shall be amended as follows.

(2) In subsection (1) of section 78A(4) for “or 78” there shall be substituted “, 77A, 78 or 78ZA”.

(3) In section 80—

- (a) in subsection (1), for “or 78” there shall be substituted “,77A, 78 or 78ZA”, and
- (b) in subsection (4), after “77” there shall be inserted “or, as the case may be, 77A”.

(4) In section 81—

- (a) in subsection (2)—
- (i) after “78”, in the first place where it occurs, there shall be inserted “or 78ZA”, and

- (ii) for “or, as the case may be, section 78” there shall be substituted “, 77A, 78 or, as the case may be, 78ZA”, and
  - (b) in subsection (4), after “78” there shall be inserted “or 78ZA”.
- (5) In section 81B(1)—
- (a) in paragraph (a), for “or 78” there shall be substituted “, 77A, 78 or 78ZA”,
  - (b) at the end of paragraph (b), “or” is hereby repealed, and
  - (c) after paragraph (c) there shall be inserted—
    - “(d) to refuse to declare the provisional grant of a special hours certificate final, or
    - (e) to refuse to give consent, on the application of the person who applied for the certificate, to any modification of the deposited plans.”.
- (6) In section 91, after “77,” there shall be inserted “77A,”.
- (7) In section 92(2)(c), after “78” there shall be inserted “or 78ZA”.
- (8) In section 186, in subsection (1) and (1A)(c), after “78” there shall be inserted “or 78ZA”.
- (9) In section 201(1), in the definition of “special hours certificate” for “or section 78” there shall be substituted “, 77A, 78 or 78ZA”.

Home Office  
25th March 1996

*Timothy Kirkhope*  
Parliamentary Under-Secretary of State

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order amends the Licensing Act 1964 to provide that in premises where a special hours certificate is in force an hour is not lost on the day the clocks go forward. It also enables licensing justices and magistrates' courts to grant provisional special hours certificates.