



# Licensing (Scotland) Act 1976 (repealed)

## 1976 CHAPTER 66

### PART III

#### SEAMEN'S CANTEENS

#### **40 Power to authorise grant of licences for seamen's canteens.**

If a body approved by the Secretary of State have provided or propose to provide a seamen's canteen the need for which has been certified by him after consultation with the Merchant Navy Welfare Board, the licensing board within whose jurisdiction the said canteen is or will be situated may grant a licence under this Part of this Act authorising the person who is the manager of the canteen to sell alcoholic liquor in the canteen.

#### **41 Procedure for grant of licences.**

- (1) A licensing board shall not refuse to grant a licence under this Part of this Act except under subsection (2) below or on one or more of the following grounds—
- (a) that the applicant is disqualified by or under this or any other enactment for holding a licence or is in other respects not a fit and proper person to hold a licence under this Part of this Act; or
  - (b) that the premises to which an application relates are not fit and convenient for the purposes of the canteen; or
  - (c) in a case where objection has been made to the situation of the canteen, on the ground specified in the objection; or
  - (d) that the applicant or body providing the canteen has entered into an agreement limiting the sources from which the alcoholic liquor or the mineral waters to be sold in the canteen may be obtained;

but nothing in this subsection shall prevent a licensing board from specifying in the licence granted by it the types of liquor (including if the board thinks fit types of liquor other than those in respect of which the application for the licence was made) which may be sold under the licence, and the holder of the licence or his employee

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or agent shall be guilty of an offence if he sells alcoholic liquor of a type other than that specified in the licence.

- (2) Before application is made for the grant of a licence under this Part of this Act, draft rules as to the persons entitled to use the canteen shall be prepared for submission with the application, and the licensing board shall refuse to grant the licence unless the body providing the canteen undertake to make rules for the canteen in the form of the draft, with the modifications, if any, required by the licensing board, and not to vary those rules without the consent of the licensing board.
- (3) Any licence granted under this Part of this Act shall provide that at all times at which alcoholic liquor is sold, food and beverages other than alcoholic liquor shall also be provided for sale, and if such food and beverages are not so provided, the holder of the licence or his employee or agent, as the case may be, shall be guilty of an offence.
- (4) Part I of Schedule 2 to this Act shall have effect as respects the notices to be given and the documents to be served on an application for the grant of a licence under this Part of this Act.
- (5) A licence under this Part of this Act may, in a case where it is proposed to construct or convert premises for a seamen's canteen, be a provisional licence to be made final after the proposal has been carried out; and Part II of the said Schedule 2 shall have effect as respects such licences.
- (6) Where any person desires to oppose an application for the grant of a licence under this Part of this Act, he shall, not later than seven days before the meeting of the licensing board at which the application is to be considered, give to the licensing board and to the applicant written notice of his objection specifying the ground of his objection in the manner mentioned in section 16(2) and (3) of this Act.
- (7) Notwithstanding the foregoing provisions of this section, it shall be competent for a licensing board to entertain objections from the chief constable, lodged at any time before the hearing of an application, if the licensing board is satisfied that is sufficient reason why due notice and intimation of the objection could not be given, and in such case the chief constable shall, where practicable, cause his objections to be intimated to the applicant before the hearing.

#### **42 Renewal of licences.**

- (1) Section 30 of this Act shall have effect in relation to licences under this Part of this Act.
- (2) If the Secretary of State has, in the calendar year in which the licence would otherwise expire, certified that the canteen is still needed, the licensing board may renew the licence.
- (3) A licensing board shall not refuse an application for the renewal of a licence under this Part of this Act except under subsection (4) below or on one or more of the following grounds—
  - (a) that the manager is disqualified by or under this or any other enactment for holding a licence or is in other respects not a fit and proper person to be the holder of a licence under this Part of this Act; or
  - (b) that the rules as to the persons entitled to use the canteen have not been observed or that the canteen has in other respects been improperly conducted; or

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- (c) that the manager or the body providing the canteen has entered into an agreement of the kind mentioned in paragraph (d) of section 41(1) of this Act.
- (4) On renewing a licence under this Part of this Act a licensing board may by order, to be served on the holder, direct that, within a time fixed by the order, such structural alterations shall be made in the premises comprising the canteen as the board thinks reasonably necessary to secure the proper conduct of the canteen, and if, when application for renewal of the licence is next made after the time fixed by the order has expired, it is not shown to the satisfaction of the licensing board that the order has been complied with, the licensing board may refuse to renew the licence.

If an order under this subsection is complied with, the licensing board shall not further order within the six years following the first-mentioned order.

- (5) Any person intending to oppose an application for renewal of a licence under this Part of this Act shall, not later than seven days before the hearing of the application, give to the holder of the licence and to the licensing board notice in writing of his intention, specifying the ground of his objection in the manner mentioned in section 16(2) and (3) of this Act.
- (6) Notwithstanding the foregoing provisions of this subsection, it shall be competent for the licensing board to entertain objections from the chief constable, lodged at any time before the hearing of the application if the board is satisfied that there is sufficient reason why due notice and intimation of the objection could not be given, and in such a case the chief constable shall, where practicable, cause his objections to be intimated to the applicant before the hearing.

#### **43 Transfer of licences.**

- (1) Where the holder of a licence under this Part of this Act subsequently ceases to be the manager of the canteen, the person for the time being in charge of the canteen may, during the period of 14 days from the date on which the holder of the licence ceased to be the manager, sell alcoholic liquor in the canteen as if that licence had been transferred to him.
- (2) A transfer of a licence under this Part of this Act shall not be refused except on the ground that the applicant is disqualified by or under this or any other enactment for holding a licence or is in other respects not a fit and proper person to hold a licence under this Part of this Act.
- (3) An applicant under this section shall give the notices required by Part III of Schedule 2 to this Act.

#### **44 Rights of appeal.**

Where a licensing board—

- (a) refuses to grant, renew or transfer a licence under this Part of this Act, or
- (b) on an application for the grant of a licence under this Part of this Act, specifies, as types of liquor which may be sold under the licence, types other than those in respect of which the application for the licence was made, or
- (c) on an application for renewal of a licence under this Part of this Act, does not comply with any request duly made by the applicant for a change in the specification of the types of liquor which may be sold under the licence, or

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(d) requires modifications in the rules proposed to be made as to the persons entitled to use the canteen, or withholds its consent to a variation of those rules, or

(e) makes an order under section 42(4) of this Act,

the applicant or, as the case may be, the licence-holder may appeal to the sheriff from such a decision of the licensing board.

#### **45 Provisions of this Act which apply to licensed canteens.**

(1) The provisions of this Act mentioned in subsection (2) below shall apply to licensed canteens, to the holders of licences under this Part of this Act and to their employees and agents as if a licensed canteen were a public house and as if the licence-holder of a canteen were the licence-holder of a public house.

(2) The provisions of this Act referred to in subsection (1) above are sections 31, 35, 65, 66, 71, 76, 77, 78, 79, 84, 85, 87, 88 and 126.

#### **46 Interpretation of Part III.**

In this Part of this Act, “canteen” includes a part of a hostel where food or drink is supplied, whether or not the food or drink is separately paid for.

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