



Licensing (Alcohol Education and Research) Act 1981

CHAPTER 28

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ELIZABETH II



Licensing (Alcohol Education and Research) Act 1981

1981 CHAPTER 28

An Act to abolish the functions of compensation authorities under the Licensing Act 1964 and to use the assets remaining in the compensation funds managed by those authorities for education about and research into the misuse of alcohol and for other purposes.

[2nd July 1981]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows: —

Abolition of compensation authorities

1.—(1) After the commencement of this Act—

(a) no application for the renewal, transfer or removal of an old on-licence may be referred by the licensing justices to the compensation authority under section 13 of the Licensing Act 1964 (under which such an application may be refused by the authority on grounds other than those specified in section 12 of that Act, but subject to the payment of compensation);

(b) no proposed surrender of such a licence may be so referred under section 18(1)(b) of that Act (which pro-

Termination
of functions
of compensation
authorities
under the
Licensing
Act 1964.
1964 c. 46.

vides for the payment of compensation in certain cases where a renewal might properly have been refused under section 13) ; and

- (c) the powers of compensation authorities under section 17 of that Act to impose charges for the benefit of their compensation fund and to borrow for the purpose of paying compensation are no longer exercisable.

(2) Where in a pending case a compensation authority have decided to refuse the renewal, transfer or removal of the licence but, when the amount of compensation has been ascertained, it appears that the authority have not sufficient funds available in their compensation fund to pay the compensation, then, unless the persons among whom the compensation falls to be divided agree to take instead such sum as is available, the authority shall rescind its decision and notify the renewal authority accordingly and the renewal, transfer or removal of the licence shall cease to be provisional.

(3) Where a compensation authority have decided in more than one pending case to refuse the renewal, transfer or removal of the licence, then—

(a) unless it appears to the authority that the aggregate amount of compensation payable is unlikely to exceed the amount available in the authority's compensation fund, no payment of compensation shall be made in any of those cases until the amounts payable in all those cases are ascertained ; and

(b) if it then appears that the aggregate amount of compensation payable exceeds the amount available in the authority's compensation fund, the persons between whom the compensation falls to be divided may agree to an abatement of their entitlement so as to reduce the aggregate amount of compensation to the amount available, but if no such agreement is come to the authority shall determine the order in which the cases are to rank for payment of compensation.

Appointment
of the
liquidator.

2.—(1) The Secretary of State shall appoint a person (referred to in this Act as "the liquidator") to perform the functions specified in the following provisions of this Act in connection with the assets of compensation funds.

(2) The liquidator shall be paid such remuneration as the Secretary of State may determine with the consent of the Minister for the Civil Service.

(3) The liquidator's remuneration and his expenses in performing his functions under this Act shall be charged on the funds in his hands from time to time.

(4) The liquidator shall not be regarded as acting on behalf of the Crown.

(5) In Part III of Schedule 1 to the House of Commons Disqualification Act 1975 (disqualifying offices) at the appropriate place there is inserted—

“Liquidator appointed under section 2 of the Licensing (Alcohol Education and Research) Act 1981.”

3.—(1) Each compensation authority shall, as soon as reasonably practicable after the disposal of any pending cases or, if the authority have no such cases, as soon as reasonably practicable after the commencement of this Act, make up accounts for their compensation fund and prepare a financial statement in the form required by Rule 61 of the Licensing Rules 1910.

Final
accounts of
authorities
and powers of
liquidator.
S. R. & O.
1910/1180.

(2) Rules 62 and 63 of those Rules (audit of accounts and certification of financial statement) shall apply in relation to the accounts and statement prepared under subsection (1).

(3) A copy of the financial statement, as certified by the auditor, shall be sent by the compensation authority to the liquidator, together with a copy of any report on it by the auditor.

(4) The liquidator may, at any time after receiving a copy of an authority's final financial statement, by notice in writing given to the authority direct them to realise any assets of their compensation fund specified in the notice and to discharge any liabilities so specified, being liabilities which fall to be discharged out of the fund.

(5) The liquidator shall, as soon as may be after receiving a copy of an authority's final financial statement, by notice in writing given to the authority appoint a day on which—

(a) there shall vest in him by virtue of this subsection the assets of the authority's compensation fund, together with any accounting or other records of the authority relating to the fund ; and

(b) any liabilities of the authority falling to be discharged out of the fund shall become liabilities of the liquidator.

(6) Where any securities are standing in the books of a company in the name of a compensation authority, a certificate purporting to be signed by or on behalf of the liquidator and stating that the securities to which the certificate relates and any dividends or interest thereon have vested in him by virtue of subsection (5) is sufficient authority to the company to transfer the securities into the name of the liquidator or, as the case may be, to pay the dividends or interest to him.

In this subsection—

“company” includes the Bank of England and any company or person keeping books in which any securities are registered or inscribed ; and

“securities” has the same meaning as in the Prevention of Fraud (Investment) Act 1958.

1958 c. 45.

Dissolution of
authorities and
compensation
for loss of
office.

4.—(1) A compensation authority shall cease to exist on the day appointed in relation to that authority under section 3(5).

(2) Where an individual who is clerk or treasurer of a compensation authority suffers loss of office on the authority ceasing to exist he is entitled to be paid by the liquidator compensation for loss of office calculated in accordance with the following provisions of this section.

(3) The amount of compensation shall be calculated by reference to the period for which the officer held the office in question and reckoning backwards the number of complete years falling within that period, and allowing—

(a) 3 per cent. of the relevant annual remuneration for each year during which the officer was not below the age of 41 ; and

(b) 2 per cent. of the relevant annual remuneration for each such year not within paragraph (a).

(4) In subsection (3) “relevant annual remuneration” means the amount of remuneration paid to the officer concerned in respect of the twelve months immediately before his office ceased to exist.

(5) For the purposes of subsection (3) no account shall be taken of any period for which the officer concerned was not paid any remuneration in respect of his office or for which he was paid but did not retain the remuneration for his own use.

Application of assets of compensation funds

5.—(1) Subject to the provisions of this Act, the assets received by the liquidator shall be applied as follows—

(a) one half shall be transferred to the Alcohol Education and Research Fund established under section 7 ;

(b) one quarter shall be applied for other charitable purposes in accordance with section 8 ; and

(c) one quarter shall be applied in making repayments under section 9.

(2) On receiving the assets of a compensation fund the liquidator shall divide the assets into three funds in the proportions specified in subsection (1).

Application
of funds in
hands of
liquidator.

(3) When it appears to the liquidator that he may properly do so, having defrayed or made provision for defraying his expenses, he shall transfer to the appropriate body the funds applicable as mentioned in paragraphs (a) and (b) of subsection (1).

(4) Assets other than cash received by the liquidator shall be valued for the purposes of this section and may be realized by him.

(5) Funds in the liquidator's hands which are not invested and are not required for the time being for the purposes of his functions shall be placed by him on deposit at interest and the interest added to the principal.

6.—(1) There shall be a body corporate known as the Alcohol Education and Research Council (referred to in this Act as “the Council”).

Establishment
of the Alcohol
Education and
Research
Council.

(2) The Council shall consist of not less than nine and not more than fifteen members appointed by the Secretary of State.

(3) The Secretary of State may appoint one of the members to be chairman of the Council.

(4) The provisions of Schedule 1 have effect with respect to the Council and their proceedings.

7.—(1) There shall be a fund known as the Alcohol Education and Research Fund (referred to in this section as “the Fund”) which shall be vested in and administered by the Council.

The Alcohol
Education
and Research
Fund.

(2) The Fund shall be applied for such charitable purposes in the United Kingdom as the Council may determine from time to time from among the following—

- (a) the education of the public as to the causes and effects of, and means of preventing, excessive consumption of alcohol;
- (b) the care and rehabilitation of persons convicted of offences involving drunkenness;
- (c) the provision of treatment and other help for persons dependent on alcohol or given to excessive consumption of alcohol;
- (d) research into matters relevant to any of the purposes mentioned in paragraphs (a) to (c) and the publication of the results of such research.

(3) In determining how the Fund is to be applied for the purposes mentioned in paragraphs (b) and (c) of subsection (2) the Council shall give priority to support for novel schemes for achieving those purposes.

(4) The Council may make grants from the Fund either for specific charitable projects or in aid generally of the finances of an organisation established for charitable purposes only which is concerned with any of the purposes specified in subsection (2).

1961 c. 62.

(5) Any sums in the Fund which are not immediately required for any other purpose may be invested by the Council in accordance with the Trustee Investments Act 1961; and sections 1, 2, 5, 6, 12 and 13 of that Act have effect in relation to such sums, and in relation to any investments for the time being representing such sums, as if they constituted a trust fund and the Council were the trustees of that trust fund.

(6) The Fund may be applied by the Council without distinction between capital and income.

Charitable
purposes
connected
with the
licensed trade.

8.—(1) The assets applicable for charitable purposes under section 5(1)(b) shall be transferred by the liquidator to the trustees for the time being of the trust fund known as the Licensed Trade Charities Trust which was established on 16th February 1981 by the Brewers' Society, the National Association of Licensed House Managers and the National Union of Licensed Victuallers, to be held by those trustees upon the same trusts as that fund.

(2) If for any reason it is impracticable for the liquidator to comply with subsection (1), the assets shall instead be transferred by him to the Council to be held by them on trust to be applied for charitable purposes connected with the licensed trade.

(3) The Council may transfer the whole or part of the assets to be so applied to another body if it appears to them that the body is—

- (a) established for charitable purposes only;
- (b) representative of persons engaged in the licensed trade; and
- (c) competent to hold and distribute the assets for charitable purposes connected with that trade.

(4) In this section the "licensed trade" means the trade of supplying intoxicating liquor under a justices' licence, and for the purposes of this section charitable purposes are connected with the licensed trade if they are in any way maintained or administered by persons engaged in that trade.

The
repayment
scheme.

9.—(1) The assets applicable under section 5(1)(c) for the purpose of making repayments shall be distributed by the liquidator in accordance with a scheme (the "repayment scheme") to be made by the Secretary of State among persons who at the

commencement of this Act had an interest in premises in respect of which an old on-licence was then in force.

(2) The repayment scheme shall—

- (a) specify which of those persons are eligible to receive repayments; and
- (b) provide for the manner of dividing among those eligible the sums to be distributed;

and shall require persons claiming to be eligible to receive payments to apply to the liquidator in such form as he may require and to furnish him with, and if so required to verify, such information as appears to him necessary to establish their eligibility or the amount of the payment to be made to them.

(3) The repayment scheme may provide that questions of eligibility or of the amount payable to any person shall be determined not by the liquidator but by some other person appointed by the Secretary of State; and if such an appointment is made—

- (a) the person appointed shall be paid such remuneration as the Secretary of State may determine with the consent of the Minister for the Civil Service; and
- (b) the remuneration and expenses of that person shall be expenses of the liquidator.

(4) The repayment scheme shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(5) It is for the liquidator to decide when a distribution is to be made under the repayment scheme and whether there is to be one distribution or several, except that no distribution shall be made if it appears to the liquidator that the assets which are available for the purpose do not justify a distribution having regard to the likely cost of effecting it.

(6) If it appears to the liquidator that there are assets in his hands which are applicable for the purpose of making repayments under this section but—

- (a) their amount is not sufficient to justify a distribution; and
- (b) it is unlikely that further sums will be received by him which will together with those assets be sufficient to justify a distribution,

he shall apply the assets in accordance with section 5 as if paragraph (c) of subsection (1) were omitted and the references in paragraphs (a) and (b) of that subsection to one half and one quarter were references to two-thirds and one-third respectively.

*Supplementary*Accounts
and audit.**10.**—(1) It is the duty of both the liquidator and the Council—

- (a) to keep proper accounts and proper records in relation to the accounts ;
- (b) to prepare in respect of each financial year a statement of accounts which—
 - (i) in the case of the liquidator, gives a full and true account of his receipts and payments and of any other acts and dealings during the year ; and
 - (ii) in the case of the Council, gives a true and fair view of the state of their affairs at the end of the year and of their income and expenditure for the year ;
- (c) as soon as may be after the end of each financial year, to have the accounts and the statement for the year audited by a qualified auditor ; and
- (d) as soon as the accounts and statement have been audited, to send to the Secretary of State a copy of the statement together with a copy of any report by the auditor on the statement or on the accounts.

(2) A person is qualified to audit the accounts of the liquidator or the Council if, and only if, he is—

- (a) a member of one or more of the bodies of accountants recognised by the Secretary of State for the purposes of section 161(1)(a) of the Companies Act 1948 (bodies whose members are qualified for appointment as auditor of a company) ; or
- (b) authorised to act as auditor of a company under section 161(1)(b) of that Act (as having similar qualifications obtained outside the United Kingdom) ;

except that a Scottish firm is so qualified if all the members of the firm are so qualified.

1948 c. 38.

Repeals.

11.—(1) The enactments mentioned in Schedule 2 are repealed to the extent specified in the third column of that Schedule.

(2) The repeals made by subsection (1) do not affect—

- (a) the disposal of pending cases ; or
- (b) the continuance of a compensation authority for the purposes of section 3.

Interpretation.

12.—(1) In this Act—

“ the Council ” means the Alcohol Education and Research Council established under section 6 ;

“ financial year ” means the twelve months ending with 31st March ;

“ the liquidator ” means the person appointed by the Secretary of State under section 2 ;

“ pending case ” means a matter referred to a compensation authority and not disposed of before the commencement of this Act ;

and the following expressions have the same meaning as in the Licensing Act 1964: “ compensation authority ”, “ compensation fund ”, “ intoxicating liquor ”, “ justices’ licence ” and “ old on-licence ”. 1964 c. 46.

(2) References in this Act to the disposal of a matter referred to a compensation authority are references to the conclusion of all relevant proceedings, including proceedings relating to the assessment or division of compensation and proceedings resulting from the stating of a case for the opinion of the High Court or from an appeal from, or application for review of, any decision in the case.

13.—(1) This Act may be cited as the Licensing (Alcohol Education and Research) Act 1981. Citation, commencement and extent.

(2) The Licensing Acts 1964 to 1976, the Licensing (Amendment) Act 1977, the Licensed Premises (Exclusion of Certain Persons) Act 1980, the Licensing (Amendment) Act 1980 and this Act may be cited as the Licensing Acts 1964 to 1981. 1977 c. 26. 1980 c. 32. 1980 c. 40.

(3) This Act comes into operation on such day as the Secretary of State may appoint by order made by statutory instrument.

(4) This Act does not extend to Scotland or Northern Ireland.

SCHEDULES

Section 6.

SCHEDULE 1

THE ALCOHOL EDUCATION AND RESEARCH COUNCIL

Introductory

1. In this Schedule "member" means a member of the Council.

Status of Council

2. The Council shall not be regarded as acting on behalf of the Crown.

Tenure of office of members

3.—(1) Subject to the provisions of this paragraph, a member shall hold and vacate his office in accordance with the terms of his appointment.

(2) A person shall not be appointed a member for more than three years but, subject to sub-paragraph (3), a person who ceases or has ceased to be a member may be re-appointed.

(3) A person shall not be re-appointed a member for a period such that his total period or periods of membership exceeds, or exceed in aggregate, six years.

(4) A member may resign by notice in writing to the Secretary of State.

(5) The Secretary of State may terminate the appointment of a member if he is satisfied that—

- (a) for a period of six months beginning not more than nine months previously he has, without the consent of the other members, failed to attend the meetings of the Council ;
- (b) he is an undischarged bankrupt or has made an arrangement with his creditors ;
- (c) he is by reason of physical or mental illness, or for any other reason, incapable of carrying out his duties ; or
- (d) he has been convicted of such a criminal offence, or his conduct has been such, that it is not in the Secretary of State's opinion fitting that he should remain a member.

Tenure of office of chairman

4.—(1) Subject to the provisions of this paragraph, the chairman of the Council shall hold and vacate his office in accordance with the terms of his appointment.

(2) The chairman may resign his office by notice in writing to the Secretary of State.

(3) A member who ceases or has ceased to be chairman may be re-appointed to that office.

(4) If the chairman ceases to be a member he shall also cease to be chairman.

Expenses

5. All administrative and other expenses incurred by the Council in discharging their functions shall be charged on the funds in their hands from time to time.

6.—(1) The Council shall discharge their functions in accordance with such arrangements as they may determine.

(2) Those arrangements may provide for any function to be discharged under the general direction of the Council by a committee or committees consisting of three or more members and anything done by such a committee shall, if the arrangements so provide, have effect as if done by the Council.

(3) The validity of any proceedings of the Council is not affected by any vacancy among the members or by any defect in the appointment of a member.

(4) The arrangements made under this paragraph may include provisions specifying a quorum for meetings of the Council and any committee; and until a quorum is so specified in relation to meetings of the Council the quorum for such meetings shall be such as may be determined by the Secretary of State.

Annual report

7. As soon as practicable after the end of each financial year the Council shall make a report to the Secretary of State on their activities during that year.

Power to dissolve Council

8. If at any time it appears to the Secretary of State that—

(a) the assets of the Alcohol Education and Research Fund are exhausted; and

(b) the Council has no other functions to discharge under this Act, he may by order made by statutory instrument dissolve the Council.

Section 11.

SCHEDULE 2

REPEALS

PART I

ACTS

Chapter	Short title	Extent of repeal
1964 c. 26.	Licensing Act 1964.	Sections 13 and 14. In section 15— (a) in subsection (1), the words " to 14 "; (b) subsection (4). Sections 16 to 18. Section 38. In section 125, the words from " and accordingly " onwards. Section 136. In section 144, the words " 136 and ". In section 201, the definition of " compensation fund ". Schedules 3 and 4.
1967 c. 54. 1971 c. 23.	Finance Act 1967. Courts Act 1971.	In Schedule 7, paragraph 2. In section 53(4), paragraph (a). In Schedule 7, paragraphs 7 and 8.
1972 c. 70.	Local Government Act 1972.	In Schedule 25, paragraphs 2 and 7.
1975 c. 7.	Finance Act 1975.	In Schedule 12, paragraph 11.

PART II

SUBORDINATE LEGISLATION

Number	Title	Extent of repeal
S.R. & O. 1905/193.	Rules dated 10th March 1905 made by the Treasury under section 3(2) of the Licensing Act 1904 (c. 23.)	The whole.
S.R. & O. 1910/1180.	Licensing Rules 1910.	The whole.
S.I. 1958/1364.	Licensing Rules 1958.	The whole.
S.I. 1972/44.	Licensing (Amendment) Rules 1972.	The whole.

c. 28

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