



Finance (1909-10) Act 1910

1910 CHAPTER 8

PART II

DUTIES ON LIQUOR LICENCES.

43 Duties on excise liquor licences.

There shall be charged, levied, and paid on the licences for the manufacture or sale of intoxicating liquor specified in the First Schedule to this Act, the duties of excise specified in that Schedule, and the provisions expressed in that Schedule to be applicable to any such licences shall have effect with respect to those licences. The said duties shall be charged on any licences which shall have been granted after the first day of July nineteen hundred and nine or may hereafter be granted, but, in this case of any such licences granted before the thirtieth day of September nineteen hundred and nine, the amount of the duty shall be adjusted so as to make the sum payable in respect of the period up to that date such sum only as would have been payable if this Act had not passed.

44 Valuation of licensed premises.

- (1) The annual value of any premises for the purposes of any duty charged in the First Schedule to this Act shall be determined in the same manner and subject to the same conditions (including, as respects licensed premises in Ireland, the provisions of subsection (7) of section forty-three, of the Inland Revenue Act, 1880) as the annual value of premises is determined for the purpose of a publican's licence, and, in the determination of that value, the duty on the licence is not to be allowed as a deduction.
- (2) it shall be the duty of the Commissioners to prepare, and to keep corrected, a register showing the annual licence value of all fully licensed premises and all beerhouses.

For the purpose of this provision the annual licence value shall be taken to be the amount by which the annual value of the premises as licensed premises exceeds the annual value which the premises would bear if they were not licensed premises, those values being calculated on the same basis as that on which the amount to be paid as compensation under section two of the Licensing Act, 1904, is calculated in default

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of agreement and approval in cases where compensation is payable under that Act, but there shall not be included in the value of the premises as licensed premises any amount on account of depreciation of trade fixtures.

The annual licence value shall be fixed and certified for the purposes of this Act by the Commissioners of Inland Revenue, and those Commissioners shall send by post a copy of the certificate (and in case any correction is subsequently made in the amount certified, a copy of the corrected certificate) to the licence-holder stating the two annual values by reference to which the annual licence value has been arrived at, and, on the application of any other person who appears to them to be interested in the premises, furnish a copy of the certificate or corrected certificate to him, and any such certificate shall be subject to the like appeal as that to which the determination of the Commissioners of Inland Revenue of the amount to be paid for compensation under subsection (2) of section two of the Licensing Act, 1904, is for the time being, subject, with the substitution, as respects Scotland, of the Judges of the Court of Session named for the purpose of hearing appeals under the Valuation of Land (Scotland) Acts, and, as respects Ireland, of the High Court of Justice of Ireland, for the High Court, and the costs on any such appeal shall be in the discretion of that court. In estimating for that purpose the value as licensed premises of hotels or other premises used for purposes other than the sale of intoxicating liquor, no increased value arising from profits not derived from the sale of intoxicating liquor shall be taken into consideration.

- (3) The licence holder and any person interested in licensed premises shall, if required by the Commissioners, make a return in such form and containing such particulars as the Commissioners may properly require for the purpose of the ascertainment under this section of the annual-value or the annual licence value of the premises, and, if any person fails to make such a return within the time, not being less than thirty days, specified in the notice requiring the return, he shall be liable on summary conviction to a fine not exceeding twenty pounds.

45 Reduction of duty in case of hotels or restaurants.

- (1) Where in the case of any licensed premises which are structurally adapted to be used and bonâ fide used for the purpose of the reception of guests and travellers desirous to sleep in the premises, or which are licensed premises structurally adapted for use, and bonâ fide used as a restaurant, it is shown to the satisfaction of the Commissioners that the receipts from the sale of intoxicating liquor were in the preceding year less in the case of a restaurant than two-fifths, and in the case of any other premises than one-third of the total receipts in that year from the business of all descriptions carried on' by the licence holder in the premises, the duty payable under this Act in respect of the licence shall, subject to the minimum provided by this section, be a reduced duty bearing the same proportion to the full duty payable as the receipts from the sale of intoxicating liquor bear to the total receipts.
- (2) For the purpose of the calculation of receipts under this section, the year shall be the year ending the thirty-first day of March or such other day as the Commissioners may fix for any area or to meet the circumstances of a particular case or cases.
- (3) The reduced duty payable under this section may, at the option of the person by whom the duty is payable (but subject to the minimum provided by this section), be a duty of twenty-five per cent. on such amount as the Commissioners of Inland Revenue certify to be the annual licence value of the premises, and those Commissioners shall, on the application of any person by whom the duty is payable, certify that amount subject to

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appeal in manner herein-before provided in any case where that amount has not been determined for the purpose of the register to be prepared under this Act.

- (4) The reduced duty payable under this section shall not be less than one-thirtieth of the annual value of the premises in the case of fully licensed premises, and in any other case one-fifteenth of the full duty, but shall not in any case to which a minimum duty is applicable under Scale 3 in the First Schedule to this Act be less than that minimum duty.
- (5) The Commissioners may make regulations for adapting the provisions of this section to cases where a licence is granted in respect of premises for which such a licence has not previously been in force or where the annual licence value of the premises has not been certified, and may by those regulations provide for the grant of a licence in cases where they are satisfied that it is probable that the premises for which the licence is granted are premises to which this section will apply, on a provisional payment of one-fifth of the full duty, and for adjustment of the duty after the licence has been in force for six months in accordance with the receipts for those six months, or after the annual licence value has been certified, either by the repayment of any duty which is found to have been paid in excess, or by the recovery as a debt due to His Majesty of any sum by which the amount paid as duty falls short of the amount which is found to be payable.
- (6) The power to obtain a licence on payment of a reduced amount of duty in the case of a six-day licence and in the case of an early closing licence shall not apply where a reduced duty is payable under this section ; but, in cases to which this section applies, effect shall be given to the statutory enactments as to six-day and early closing licences by calculating the full duty payable as the amount of that duty reduced in the case of a six-day or early closing licence by one-seventh, and in the case of a licence which is both a six-day and an early closing licence by two-sevenths.

46 Distribution of payments on account of licence duties in certain cases.

Where the licence holder is bound by any covenant, agreement, or undertaking, or is otherwise under any direct or indirect obligation of any kind, to obtain a supply of intoxicating liquor from any person or persons, the licence holder shall be entitled, notwithstanding any agreement to the contrary, to recover as a debt due from or deduct from any sum due to any such person so much of any increase of the duty payable in respect of his licence occasioned by this Act as may be agreed upon, or in default of agreement determined by the Commissioners to be proportionate to any increased rent of the licensed premises, or increased prices of intoxicating liquor supplied, or other benefit obtained by such person by reason of any such covenant, agreement, undertaking, or obligation as aforesaid.

47 Reduction of monopoly value payments in certain cases.

- (1) Where it is shown to the Commissioners that the amount of any annual payments to be made, or of any capital sum which has been paid, in pursuance of conditions attached to the grant of a new on-licence for securing to the public monopoly value under section four of the Licensing Act, 1904, exceeds the amount which should reasonably be required having regard to the increase in the duty on the licence under this Act, the Commissioners shall, after giving the justices by whom the conditions have been attached to the licence an opportunity of reporting to them on the matter, reduce in such manner as shall be just the amount of any payment to be so made, or,

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in cases where a capital sum has been paid, allow such a reduction from the duty to be paid for the licence as shall be just, having regard to the decrease, if any, of the monopoly value owing to the increase of the duty on the licence, but any decision of the Commissioners as to the reduction to be made under this provision shall be subject to the like appeal as that to which the determination by the Commissioners of Inland Revenue of the amount to be paid for compensation under subsection (2) of section two of the Licensing Act, 1904. is subject under that Act.

- (2) Any amount by which the duty on the licence is reduced under this section shall be deducted, in accordance with directions of the Treasury, from the next payment made out of the local taxation account to the council of the county or county borough who have had the benefit of the original capital sum paid, and the amount to be paid into the local taxation account on account of the proceeds of the duties on the licences for the sale of intoxicating liquor shall be reduced accordingly.

48 Duty on statement of purchases of intoxicating liquor to be supplied in a club.

- (1) It shall be the duty of the, secretary of every registered club to deliver to the Commissioners, in the month of July in the year nineteen hundred and ten, and in the month of January in every subsequent year or within such further time as the Commissioners may in any case allow, a statement of the purchases during the preceding calendar year of intoxicating liquor to be supplied in or to the club or on behalf of the club to the members thereof, in such form and containing such particulars as may be prescribed by the Commissioners, and every such statement shall be charged with an Excise duty of sixpence for every pound of the purchases shown in the statement.
- (2) If the secretary of a club fails to deliver a statement in accordance with this section after a notice in writing from the Commissioners requiring him so to do has been served on him, either by leaving it at the club premises or by sending it to him by post addressed to the club, he shall be liable on summary conviction to a fine not exceeding twenty pounds, and in the case of a second or subsequent offence to imprisonment with or without hard labour for a term not exceeding one month or to a fine not exceeding fifty pounds or to both, and, if he knowingly delivers a statement which is in any material particular untrue, he shall be liable on summary conviction to imprisonment with or without hard labour for a term not exceeding three months, or to a fine not exceeding fifty pounds, or to both imprisonment and fine.
- (3) If any duty under this section remains unpaid after the first day of September in the year nineteen hundred and ten, and the first day of March in any subsequent year, the duty may be levied by distress on the premises of the club in respect of which the duty is due, and the collector of Customs and Excise may, for that purpose, by warrant signed by him, authorise any person to distrain upon the premises, and to sell any distress levied by public auction, after giving six "days' previous notice of the sale :

Provided that a distress shall not be levied under this provision unless notice in -writing requiring the payment of the amount of duty unpaid has been served on the secretary of the club by leaving the notice at the club premises or by sending it to him by post addressed to the club:

The proceeds of the sale shall be applied in or towards payment of the costs and expenses of the distress and sale, and the payment of the duty due, and the surplus, if any, shall be paid to the secretary of the club, and treated by him as part of the funds of the club.

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- (4) If any duty payable under this section remains unpaid after the first day of September in the year nineteen hundred and ten, and the first day of March in any subsequent year, or if the secretary of a club fails in any year to deliver a statement as required by this section, the supply of any intoxicating liquor in the club shall, so long as the duty remains unpaid, or the failure continues, as the case may be, be deemed to be a sale of intoxicating liquor without a licence.
- (5) The Commissioners may make regulations for adapting the provisions of this section to the case of a club which is discontinued as a registered club during any calendar year, and for procuring a statement under this section of the purchases of intoxicating liquor up to the date of the discontinuance of the club as a registered club, and for charging the duty under this section in respect of that statement.
- (6) The clerk by whom any register of clubs is kept shall send notice to the Commissioners of the entry of any new club, and of any case in which a club ceases to be registered, upon the register kept by him.

49 Grant of licences and date of expiration of licences.

- (1) The licences specified in the First Schedule to this Act shall be in such form as the Commissioners direct, and any such licence may be granted on payment of the appropriate duty by any officer of Customs and Excise authorised to grant the licence by the Commissioners.
- (2) Manufacturers' licences shall expire on the thirtieth day of September and wholesale dealers' licences shall expire on the thirtieth day of June in every year, and any other licences specified in the First Schedule to this Act which are to be taken out annually shall (subject as herein-after provided) expire in England and Ireland on the thirtieth day of September and in Scotland on the twenty-eighth day of May in each year:

Provided that where a retailer's off-licence for the sale of any liquor is held by the holder of a wholesale dealer's licence for the sale of the same liquor, the retailer's licence shall expire on the same day as that on which the wholesale dealer's licence expires.

- (3) Where the duty payable by any person under this Part of this Act on any licence exceeds the sum of sixty pounds, the licence may, at the option of the licence-holder, be granted upon payment of one-half only of the duty so payable, and in that case the other half of the duty shall be paid immediately after the expiration of six months from the commencement of the year for which the licence was granted, or, in case the licence was granted after the month of September, on the first day of March next after the commencement of the year for which the licence was granted, and in default of payment of the second half of the duty the licence shall cease to be in

This provision shall apply to two or more licences granted in respect of one set of premises as it applies to a single licence.

50 Penalties.

- (1) If any person makes or manufactures any intoxicating liquor, for the making or manufacture of which he is required to take out a licence under this Act, without taking out such a licence, he shall be liable in respect of each offence to an excise penalty of five hundred pounds.

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- (2) If any person deals wholesale in any intoxicating liquor, for the wholesale dealing in which he is required to take out a licence under this Act, without taking out such a licence, he shall be liable in respect of each offence to an excise penalty of one hundred pounds.
- (3) If any person sells by retail any intoxicating liquor, for the retail sale of which he is required to take out a licence under this Act, without taking out such a licence, he shall be liable in respect of each offence, at the election of the Commissioners, either to an excise penalty of fifty pounds, or to an excise penalty equal to treble the amount of the full duty.
- (4) If any person holding any of the licences specified in the First Schedule to this Act contravenes the terms of the licence, or sells otherwise than as he is authorised by the licence, or contravenes any of the provisions applicable to the licence under that Schedule, he shall be liable in respect of each offence, if the offence is not an offence for which any specific penalty is imposed by any Act relating to excise duties or licences, to an excise penalty of fifty pounds.

General.

51 Relation of licences granted under Act to licences abolished.

- (1) Any reference in any Act or document to any description of Excise licence for the manufacture or sale of intoxicating liquor which is expressed in the First Schedule to correspond to any description of licence which may be granted under this Act, shall be deemed to be a reference to the description of licence to which it is expressed to correspond.
- (2) The additional retail licences for the sale of spirits or liqueurs or beer granted to a dealer in spirits or beer, and the licence for the sale of table beer, and the combined licence for the sale by retail of wine and beer, shall cease to be granted, without prejudice to the continuance of any such licence which is in force at the time of the passing of this Act until the date when the licence expires in accordance with the provisions of this Act.
- (3) Where any existing excise licence may be granted without a justices' licence being required, no justices' licence shall be required for the issue of the corresponding excise licence under this Act.

52 Definitions.

In this Part of this Act—

The expression " beer " includes ale, porter, spruce beer, black beer, and any other description of beer, and any liquor which is made or sold as a description of beer or as a substitute for beer, and which on analysis of a sample thereof at any time is found to contain more than two per cent. of proof spirit;

The expression " wine " means wine imported into Great Britain or Ireland;

The expression " sweets " means any liquor which is made from fruit and sugar, or from fruit or sugar mixed with any other material, and which has undergone a process of fermentation in the manufacture thereof, and includes British wines, made wines, mead, and metheglin;

Any reference to cider shall include a reference to perry ;

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The expression "registered club" means a club for the time being registered under the Licensing Act, 1902, and in Scotland and Ireland a registered club within the meaning of the Licensing (Scotland) Act, 1903, and the Registration of Clubs (Ireland) Act, 1904, respectively;

The expression "passenger vessel" means a vessel of any description employed for the carriage and conveyance of passengers which goes from any place in the United Kingdom to any other place in the United Kingdom, or goes from and returns to the same place in the United Kingdom on the same day;

The expression "publican's licence" means the on-licence to be taken out by a retailer of spirits, and the expression "beerhouse licence" means the on-licence to be taken out by a retailer of beer ;

The expression "fully licensed premises" means premises to which a publican's licence is attached, and the expression "beerhouse" means premises to which a beerhouse licence is attached ;

The expression "premises" in relation to the value of licensed premises includes any offices, courts, yards, and gardens occupied together with the house in which the liquor is sold, except any such offices, courts, yards, or gardens as are proved to the satisfaction of the Commissioners to be used for any trade or business distinct from any trade or business carried on upon the premises by the licence holder.

The expression "full duty" means the duty which would be charged under the First Schedule to this Act without taking into consideration any reduction or allowance or, in cases where duty may be charged under that schedule by reference to annual value, any alternative mode of charging the duty.

Temporary Provision.

53 Temporary provision as to expiration of licences.

- (1) All Excise licences for the manufacture or sale of intoxicating liquor which are to be taken out annually and are in force at the time of the passing of this Act (in this section referred to as existing licences) shall, if they have not previously ceased to be in force, cease to be in force on the thirtieth day of June next after the passing of this Act, and the Commissioners shall repay or allow to the holder of any such existing licence which ceases to be in force on the thirtieth day of June an amount of duty proportionate to the time by which the period of the currency of the licence is diminished under this provision after deducting in the case of licences granted since the first day of July, nineteen hundred and nine, any additional sum which the licence-holder may be required under the provisions of this Act to pay as duty for the period since the thirtieth day of September nineteen hundred and nine, or, if the licence was granted after the said thirtieth day of September, for the period during which the licence has been in force.

If the additional sum to be paid by the licence-holder exceeds the sum to be repaid or allowed, the excess shall be treated as an addition to the duty to be paid in respect of any licence granted in substitution for the existing licence.

- (2) For the purpose of recovering the duty which would have been payable on certain licences if they had expired on the thirty-first day of December nineteen hundred and nine, the following provisions shall have effect:—
- (a) Where an existing licence ceases to be in force after the date of the passing of this Act but before the thirtieth day of June next after that date, there shall

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be payable in respect of any licence granted in substitution for the existing licence an amount equal to the sum by which the proportion of the annual duty payable under this Act for the period between the thirty-first day of December and the date of the expiration of the licence exceeds the proportion of the annual duty payable before the passing of this Act for that period ; and

- (b) Where the holder of an existing licence was, on the thirty first day of December nineteen hundred and nine, the holder of a similar licence which has expired before the passing of this Act, there shall be payable, as an addition to any duty or additional sum to be paid in respect of any licence granted in substitution for the existing licence, an amount equal to the sum by which the proportion of the annual duty payable under this Act for the period between the thirtieth day of September nineteen hundred and nine and the date of the expiration of the licence, in the case of an expired licence granted after the first day of July nineteen hundred and nine, and for the period between the thirty-first day of December nineteen hundred and nine and the date of the expiration of the licence, in the case of an expired licence granted before the first day of July nineteen hundred and nine, exceeds the proportion of the annual duty payable before the passing of this Act for the same period.
- (3) Where any licence granted under this Act in substitution for a corresponding existing licence expires by virtue of the provisions of this Act before the expiration of a full year the duty payable on the licence shall be proportionately reduced.