Licensing (Abolition of State Management) Act 1971

1971 CHAPTER 65

An Act to remove the restriction on the sale and supply, otherwise than by the Secretary of State, of intoxicating liquor in the Carlisle district or of exciseable liquor in the State management districts in Scotland; to provide for the disposal of property held by the Secretary of State for the purposes of Part V of the Licensing Act 1964 or Part V of the Licensing (Scotland) Act 1959 and for the repeal of those provisions.

[27th July 1971]

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 restrictions on sale and supply of intoxicating or exciseable liquor in certain districts.

1. The restrictions imposed—

(*a*) by section 103 of the Licensing Act 1964 (" the Act of 1964 ") on the sale and supply by persons, other than a person acting on behalf of the Secretary of State, of intoxicating liquor in the Carlisle district, and 1964 c. 26.

(*b*) by section 82 of the Licensing (Scotland) Act 1959 (" the Act of 1959 ") on the sale and supply by persons, other than a person acting on behalf of the Secretary of State, of exciseable liquor in the State management districts, 1959 c. 51.

shall be abolished; and accordingly the said sections 103 and 82, in section 200(1) of the Act of 1964, the words " except in section 103 ", and section 2(6) of the Licensing (Scotland) Act 1962 (which provides that the said section 82 shall not apply to anything done under the authority of a restaurant or a restricted hotel certificate) are hereby repealed. 1962 c. 51.

Disposal of property in England held by Secretary of State for purposes of State management.

2.—(1) The Secretary of State shall dispose of property held by him for the purposes of Part V of the Act of 1964 on such terms as appear to him expedient in the public interest, or shall use such property for other purposes; and for the purpose of facilitating the disposal under this subsection of any premises so held the following provisions of this section shall have effect.

(2) A justices' licence shall be deemed to be in force in respect of such premises, being a licence of such class as the Secretary of State may specify in a notice as being appropriate to the business carried on by him on the premises; and any person who has acquired or is about to acquire the premises shall be entitled, for the purpose of carrying on that business, to make an application for a protection order in respect of the premises or for the transfer of the justices' licence deemed by virtue of this subsection to be in force, or for both such order and such transfer.

(3) Subject to the following provisions of this section, the provisions of Parts I, III and IV of the Act of 1964 shall have effect in relation to an application made by virtue of this section and to any decision of licensing justices or justices given on that application as if, except where the context otherwise requires, references to a justices' licence included references to a licence deemed by virtue of subsection (2) above to be in force and as if the reference in section 8(1)(*d*) to the holder of the licence were a reference to the Secretary of State.

(4) The Secretary of State shall furnish to a person proposing to make an application in pursuance of this section the notice referred to in subsection (2) above and a plan of the premises to which the notice relates, and that person shall deposit the notice and plan with the clerk to the licensing justices or the clerk to the justices, as the case may be, when he gives that clerk notice of his application.

(5) Where a protection order has been granted in pursuance of an application made by virtue of this section, section 11(4) of the Act of 1964 (memorandum of order to be endorsed on licence) shall apply as if for the first reference to the licence there were substituted a reference to the notice deposited with the clerk to the justices in accordance with subsection (4) above.

(6) The licensing justices granting a justices' licence by way of transfer of a justices' on-licence deemed by virtue of subsection (2) above to be in force shall have the like power to attach conditions as they would have if they were granting the licence as a new justices' on-licence.

(7) In this section "premises" means premises used for the sale of intoxicating liquor by retail.

(8) This section shall be construed as one with the Act of 1964.

Disposal of property in Scotland held by Secretary of State for purposes of State management.

3.—(1) The Secretary of State shall dispose of property held by him for the purposes of Part V of the Act of 1959 on such terms as appear to him expedient in the public interest, or shall use such property for other purposes; and for the purpose of facilitating the disposal under this subsection of any premises so held the following provisions of this section shall have effect.

(2) A certificate shall be deemed to be in force in respect of such premises, being a certificate of such a type as the Secretary of State may specify in a notice as being appropriate to the business carried on by him on the premises; and, subject to the following provisions of this section, any person who has acquired or is about to acquire the premises shall be entitled, for the purpose of carrying on that business, to make an application for the transfer or, as the case may be, for the renewal of the certificate deemed to be in force as aforesaid.

(3) The Secretary of State shall furnish to a person proposing to make an application in pursuance of subsection (2) above the notice therein referred to and a plan of the premises to which the notice relates, and that person shall, along with his application, lodge the notice and the plan with the clerk to the licensing court.

(4) Where a licensing court has in pursuance of an application made by virtue of this section transferred a certificate, the clerk to the licensing court shall make out and deliver to the applicant a certificate in the appropriate form as if on the application the court had granted a certificate; and accordingly, instead of the provisions of section 47 (transfer of certificates) of the Act of 1959, the provisions of sections 38 to 41 (registration of applications and procedure on issue of certificates) shall, subject to any necessary modifications, apply to a certificate transferred in pursuance of this section as they apply to an application for, and the grant of, a certificate under that Act.

(5) In this section "premises" means premises used for the sale of exciseable liquor by retail.

(6) This section shall be construed as one with the Act of 1959.

Financial Provisions.

4. All sums received by the Secretary of State in the exercise of his functions under this Act shall be paid into the Consolidated Fund, and any expenses incurred by him in the exercise of those functions shall be paid out of moneys provided by Parliament.

Repeal of Part V of Act of 1964 and Part V of Act of 1959.

5.—(1) When it appears to the Secretary of State that the provisions of Part V of, and Schedule 9 to, the Act of 1964 or of Part V of, and Schedule 8 to, the Act of 1959, as the case may be, which are not repealed by this Act can have no further application, he may by order made by statutory instrument repeal those provisions.

(2) An order under this section may make such amendments and repeals in any other enactments as appear to the Secretary of State appropriate in consequence of the repeal of the provisions of the Act of 1964 or of the Act of 1959, as the case may be, mentioned in subsection (1) above.

Short title.

6. This Act may be cited as the Licensing (Abolition of State Management) Act 1971.