STATUTORY INSTRUMENTS

1983 No. 497

LICENSING (LIQUOR)

The Licensing Compensation Funds Repayment Scheme 1983

Made - - - - -	30*th March* 1983
Laid before Parliament	11*th April* 1983
Coming into Operation	10*th May* 1983

In exercise of the powers conferred upon me by section 9 of the Licensing (Alcohol Education and Research) Act 1981**(a)**, I hereby make the following Scheme:—

1. This Scheme may be cited as the Licensing Compensation Funds Repayment Scheme 1983 and shall come into operation on 10th May 1983.

2. In this Scheme—

"the Act" means the Licensing (Alcohol Education and Research) Act 1981;

"associated company" has the same meaning as in section 302 of the Income and Corporation Taxes Act 1970**(b)**;

"compensation authority", "compensation fund", "justices' on-licence", "old on-licence" and "Part IV licence" have the same meaning as in the Licensing Act 1964**(c)**;

"the liquidator" means the liquidator appointed under section 2 of the Act;

"qualifying area" means the area of a compensation authority which on 31st December 1973 corresponded to the area of a compensation authority—

(*a*) which in the period of 25 years ending with 31st December 1973 imposed at least on charge under section 17 of the Licensing Act 1964 or (as the case may be) section 18 of the Licensing Act 1953**(d)** or section 21 of the Licensing (Consolidation) Act 1910**(e)**, and

(a) 1981 c. 28. **(b)** 1970 c. 10. **(c)** 1964 c. 26.
(d) 1953 c. 46. **(e)** 1910 c. 24 10 Edw. 7 & 1 Geo. 5)

(*b*) the balance of whose compensation fund on 31st December 1973 (as shown by the returns made pursuant to section 16(2) of the Licensing Act 1964) amounted to not less than £67 for each justices' on-licence (other than a Part IV licence) in force in the area on 30th June 1973 (as shown in the Home Office Liquor Licensing Statistics for 1973);

"qualifying interest" means an interest in qualifying premises which was—

(*a*) a freehold interest which on 1st October 1981 was not encumbered with any leasehold interest the unexpired term of which exceeded 60 years, or in respect of which no rent of monetary value was payable, or

(*b*) a leasehold interest in respect of which no rent of monetary value was payable, or

(*c*) a leasehold interest which on 1st October 1981 had an unexpired term of more than one year;

"qualifying period" means the period beginning with 31st December 1973 and ending with 1st October 1981;

"qualifying premises" means premises in a qualifying area in respect of which an old on-licence was in force throughout the qualifying period.

3.—(1) A person is eligible to receive repayments under section 9 of the Act in relation to any qualifying premises if he satisfies the following requirements:—

(*a*) he had at all times during the qualifying period a qualifying interest in those qualifying premises; and

(*b*) he submits a claim which reaches the liquidator by such date as the liquidator may specify.

(2) A person satisfies the requirements of paragraph (1)(*a*) of this Clause notwithstanding that he had at different times during the qualifying period different qualifying interests in any qualifying premises.

(3) For the purposes of paragraph (1)(*a*) of this Clause the qualifying interest of a body corporate shall include a qualifying interest held at any time during the qualifying period by any other body corporate which was, while holding such an interest, its associated company.

4.—(1) Persons claiming to be eligible to receive repayments under section 9 of the Act shall apply to the liquidator in such form as he may require.

(2) Such persons shall furnish the liquidator with, and if so required shall verify, such information as appears to him to be reasonably necessary to establish their eligibility or the amount of the payment to be made to them.

5.—(1) The sums to be distributed shall be divided among those eligible to receive repayments as follows—

(*a*) The liquidator shall apportion the assets applicable under section 5(1)(*c*) of the Act among those qualifying areas in respect of which claims which satisfy the requirements of Clause 3 have been made, according to the proportion which the balance of such a qualifying area's compensation fund on 31st December 1973 (as shown by the returns made pursuant to section 16(2) of the Licensing Act 1964) bears to the total of such balances.

(*b*) The sum so apportioned to a qualifying area shall be divided equally among the qualifying premises in that area in respect of which claims which satisfy the requirements of Clause 3 have been made.

(*c*) Where, in relation to qualifying premises, only one claim which satisfies the requirements of Clause 3 has been made, the liquidator shall pay to the person making the claim the sum applicable to those premises by virtue of paragraph (*b*).

(*d*) Where, in relation to qualifying premises, more than one claim which satisfies the requirements of Clause 3 has been made, the liquidator shall divide the sum applicable to those premises by virtue of paragraph (*b*) among the persons making the claims so that—

(i) a claimant who has paid rent to another claimant at any time during the qualifying period receives the percentage of that sum calculated by deducting from 100% the figure specified in the second column of Schedule 4 to the Licensing Act 1964 against the entry in the first column which represents that claimant's unexpired term on 1st October 1981, and the remainder is divided equally among the other claimants;

(ii) where no claimant has paid rent to another claimant that sum is divided equally among all the claimants.

(2) Nothing in paragraphs (*b*), (*c*) and (*d*) of this Clause shall prejudice the duty imposed on the liquidator by section 9(5) of the Act.

W. S. I. Whitlaw,
One of Her Majesty's Principal
Secretaries of State.

Home Office.
30th March 1983.

EXPLANATORY NOTE

(This Note is not part of the Scheme.)

By virtue of section 17 of the Licensing Act 1964 (and equivalent provisions in preceding legislation) compensation authorities were empowered to impose annual charges in respect of the renewal or transfer of old on-licences. The money so raised was used to compensate licensees in cases where the renewal or transfer of an old on-licence was refused on grounds other than misconduct.

The Licensing (Alcohol Education and Research) Act 1981 abolished the functions of compensation authorities and provided that three-quarters of the compensation funds should be applied to charitable purposes. The remaining quarter was to be distributed among those with an interest in old on-licensed premises when the Act came into force on 1st October 1981. This distribution was to be carried out in accordance with a Scheme to be made by the Secretary of State by Statutory Instrument.

The Scheme defines those persons who are eligible to receive repayments. The size of the repayment reflects the claimant's liability to contribute to charges imposed under section 17 of the Licensing Act 1964.

The Home Office Licensing Statistics which are referred to in the Scheme are available through HMSO.

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