


ANNO NONO

# GEORGII IV. REGIS.

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## CAP. LVIII.

**An Act to regulate the granting of Certificates, by Justices of the Peace and Magistrates, authorizing Persons to keep common Inns, Alehouses, and Victualling Houses, in *Scotland*, in which Ale, Beer, Spirits, Wine, and other Exciseable Liquors may be sold by Retail under Excise Licences; and for the better Regulation of such Houses; and for the Prevention of such Houses being kept without such Certificate.**

[15th *July* 1828.]

WHEREAS the Laws now in force respecting Licences or Certificates to be granted by Justices of the Peace and Magistrates to Persons to keep common Inns, Alehouses, or Victualling Houses, for the Purpose of enabling them to obtain Excise Licences for the Sale of Ale, Beer, Spirits, Wine, or other Exciseable Liquor, by Retail, to be drunk or consumed upon the Premises in which the same is sold, in *Scotland*, are defective, and require to be altered and amended: May it therefore please Your Majesty that it may be enacted; and be it enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament

 assembled,

The Acts 44 G. 3. c. 55. and 48 G. 3. c. 143. repealed, except as herein mentioned.

assembled, and by the Authority of the same, That from and after the passing of this Act, an Act passed in the Forty-fourth Year of the Reign of His late Majesty King *George* the Third, for more effectually preventing the Sale of Exciseable Liquors in *Scotland* by Persons not duly licensed, and for altering the Times of granting Licences to sell such Exciseable Liquors by Retail, and also an Act passed in the Forty-eighth Year of His said late Majesty, for repealing the Stamp Duties on Licences granted by Justices of the Peace for selling Ale, Beer, and other Exciseable Liquors by Retail, and for granting other Duties in lieu thereof, and all other Laws and Provisions in force before and at the Commencement of this Act, respecting such Licences or Certificates to be so granted as aforesaid by Justices of the Peace or Magistrates in that Part of *Great Britain* called *Scotland*, shall be, and the same, in so far as they relate to such Licences or Certificates being granted as aforesaid, are hereby respectively repealed, save and except in so far as the same repeals or repeal any other Law or Laws before in force, and save and except as to any Fine, Penalty, or Forfeiture incurred under the said Laws or any of them hereby repealed before the Commencement of this Act, and save and except as to any Certificates then in force, which shall continue in force until the next Half-yearly Meeting for granting Certificates as after mentioned, but no longer.

Meetings of Justices for granting Certificates.

II. And be it further enacted, That throughout *Scotland* there shall be annually held, for the Purpose of granting Certificates to Persons to keep common Inns, Alehouses, or Victualling Houses, to sell Exciseable Liquors by Retail, to be drunk or consumed in the Premises in which the same is sold, Two General Meetings of the Justices of the Peace in every County, so long as not divided into Districts in manner herein-after mentioned, and Two General Meetings of the Magistrates of every Royal Burgh, which Meetings shall be called "The General Half-yearly Meetings for granting Publicans Certificates."

Meetings by Magistrates of Royal Burghs for granting Certificates to be held in April and October yearly.

III. And be it further enacted, That the Magistrates of Royal Burghs shall meet for granting such Certificates, within the Royalty of the said Burgh respectively as aforesaid, upon the last *Tuesday* of *April* and the last *Tuesday* of *October* in each Year, with Power to them to adjourn such Meetings from Day to Day as they shall think fit, during the Period of Seven lawful Days following and next after the Day of their first Meeting, and no longer: Provided always, that Magistrates of Royal Burghs shall in no Case have Power to grant such Certificates as aforesaid for Inns, Alehouses, or Victualling Houses to be kept beyond the Royalty of the Burgh; and if any such Certificate shall be granted contrary hereto, the same shall be and is hereby declared to be null and void to all Intents and Purposes.

Meetings by Justices for Counties to be held in May and October.

IV. And be it further enacted, That the Justices of the Peace for the several Counties in *Scotland* shall assemble, for granting such Certificates for their several Counties respectively, upon the first *Tuesday* of *May* and the last *Tuesday* of *October* in each Year, with Power to them to adjourn such Meetings from Day to Day, as they shall think fit, during the Period of Seven lawful Days following and next after

after the Day of their first Meeting, and no longer: Provided always, that such Justices shall not have Power to grant such Certificates for the Royalty of any Royal Burgh, except as after mentioned; and if any such Certificate shall be granted contrary hereto, the same shall be and is hereby declared to be null and void to all Intents and Purposes.

Justices may divide Counties into Districts for the Purposes of this Act.

V. And be it further enacted, That it shall be lawful for the Justices of the Peace of any County, assembled at a Meeting to be held on the same Day on which the First *Michaelmas* Head Court of the County shall be held after the passing of this Act, to divide the County into Districts for the Purposes of this Act, within which such Justices shall assemble at a Place to be by them appointed, for considering and disposing of Applications under this Act, at the Times before specified; and Notice of the Place of meeting so to be appointed, and of the Name and Residence or Office or Place of Business of a Clerk or Depute Clerk within such District, with whom Applications and Recommendations may be lodged in Terms of this Act (as after mentioned), shall be given by Advertisement at the Church Doors of every Parish Church within the District, for Two several *Sundays* at least, before the first holding of such District Meeting so appointed: Provided always, that it shall be lawful for the Justices of the Peace of any County, at any *Michaelmas* Meeting as aforesaid, after previous Notice by Three Advertisements published One Month before such *Michaelmas* Meeting in any Newspaper or Newspapers circulated within the District to be affected by the Change proposed to be made, at any Time to alter or change any District or Place of District Meeting by them appointed, due Notice thereof being given, in like Manner as aforesaid, at every Parish Church before the next holding of such District Meeting.

Notice to be given thereof.

Justices may alter any District on like Notice.

If not sufficient Justices acting for any Royal Burghs, the Justices of the County may act.

VI. And be it further enacted, That if in any Royal Burgh there shall not be a sufficient Number of Magistrates present who are qualified to grant Certificates according to the Directions of this Act, at any Time when such Certificates are hereby appointed to be granted, in such Case it shall and may be lawful for the Justices of the Peace of the County in which such Royal Burgh is situated to grant Certificates for such Royal Burgh, at the same Time and in the same Manner as they are hereby empowered to grant Certificates for the County: Provided always, that any Magistrates of such Burgh, so qualified, may and are hereby authorized and empowered in such Case to act along with such Justices in granting such Certificates.

Certificates to be granted.

VII. And be it further enacted, That at such General or District Meetings, or at any Adjournment thereof, within the respective Periods aforesaid, it shall be lawful for the said Justices and Magistrates respectively to grant Certificates for the Year next ensuing, commencing as after mentioned, to such and so many Persons as the Justices or Magistrates then assembled at such General or District Meeting, or the major Part of them, shall think meet and convenient, to keep common Inns, Alehouses, or Victualling Houses, within which Ale, Beer, Spirits, Wine, and other Exciseable Liquors may, under Excise Licences, be sold by Retail, to be drunk or consumed

sumed in the Premises, within their respective Counties, Districts, or Royal Burghs; and such Justices or Magistrates shall deliver or cause to be delivered to every Person so authorized or empowered a Certificate, written or printed on Paper, in such Form as herein-after directed: Provided always, that all such Meetings shall be held with open Doors; and that it shall not be competent to refuse the Renewal of any Certificate without hearing the Party in support of the Application for Renewal in open Court, if such Party shall think fit to attend; and that there shall be at least Two Justices of the Peace or Magistrates respectively present at such Meetings; and any Certificate granted otherwise than at such Meetings shall be void and of no Effect.

Proviso as to Meetings for granting Certificates.

Certificate to be confined to one House and Premises.

VIII. And be it further enacted, That no such Certificate as aforesaid shall entitle any Person to keep a common Inn, Alehouse, or Victualling House, or to obtain an Excise Licence for selling Ale, Beer, Spirits, Wine, or other Exciseable Liquors, by Retail, to be drunk or consumed in any other House or Premises than the House and Premises specified in such Certificate: Provided always, that nothing in this Act contained shall be construed to prohibit any Person who shall have obtained such Certificate from selling Ale, Beer, Spirits, Wine, or other Exciseable Liquors, in Boats or Vessels moored in Rivers, at any Time, or in Houses, Booths, or other Places, at the Time and within the Limits of the Ground, Town, or Place in or upon which is holden any lawful Fair, in the same Parish with the House or Premises for which any Person shall have obtained a Certificate as aforesaid, or in any Parish immediately adjoining thereto.

Proviso as to Fairs, &c.

Certificate to be in force for a Year.

IX. And be it further enacted, That every such Certificate as aforesaid shall be in force for One whole Year, commencing at the Term of *Whitsunday*, or for Six Months from *Martinmas* respectively, according to the Period of the Year at which such Certificate was granted, and no longer.

Application to be lodged with the Clerk of the Magistrates Ten Days before the Meeting for granting Certificates.

X. And be it further enacted, That in all Cases a written or printed Application shall be lodged with the Clerk of the Magistrates of the Royal Burgh, or of the Justices of the Peace for the County, at least Ten Days before the First Day of the General or District Meeting for granting such Certificates, setting forth the Name and Designation of the Applicant, and specifying the House or Premises, for which such Applicant craves that such Certificate may be granted, by the Name of the Street or Place, and the Number of the House, or other particular Description; and that a Fee of Two Shillings, and no more, shall be payable to the Clerk at lodging such Application.

Magistrates may make Regulations regarding Applications.

XI. And be it further enacted, That it shall be lawful for the Justices or Magistrates respectively, assembled at any such General or District Meeting as aforesaid, to make such Regulations and Rules as they shall think fit, not being inconsistent with the Provisions of this Act, as to the Manner of making such Applications, as well for ascertaining the Character of the Applicants, as whether it be expedient to grant such Certificates in the Places in which they are sought

sought to be obtained, and also as to the Mode of proceeding in transferring Certificates as herein-after mentioned.

Names and Designations of Applicants to be entered in a Book, and kept by the Clerk.

XII. And be it further enacted, That the Names and Designations of all Persons who make Applications for such Certificates shall be entered in a Book or Register, to be kept by the Clerk of such Justices or Magistrates respectively, wherein the Names and Designations of new Applicants shall be entered separately, which Book or Register shall contain Columns for the Designations of such Applicants, for the Names of the Persons who recommend them, for the House and Place for which such Certificate is applied, for the Manner in which the Application is disposed of, and for noting a Memorandum of Convictions under this Act against such Persons respectively, and the Dates thereof; and the Cases of new Applicants shall not be considered until all the other Cases shall have been disposed of; and that at the End of the Meeting for each Day, a Deliverance shall be written in such Book or Register, specifying whether such Applications respectively were granted or refused, or continued for farther Inquiry, or how otherwise disposed of; and such Deliverance shall be then and there signed by the major Part of such Justices or Magistrates so assembled, or by the Preses of the Meeting, according to the Form contained in the Schedule annexed to this Act, therein designated by the Letter A.; and it shall not be lawful for the Justices or Magistrates at any adjourned Meeting to alter any thing which was done at any previous Meeting in granting or refusing such Certificates; and the Clerk of such Justices or Magistrates shall make out a Certificate in the Form contained in the Schedule annexed to this Act, designated by the Letter B., specifying the Date from which such Certificate shall be current.

Result of such Applications to be also entered.

Persons interested not to act as Justices.

XIII. And be it further enacted, That no Justice of the Peace or Magistrate in any County or Royal Burgh, who is a Brewer, Maltster, Distiller, or Dealer in or Retailer of Ale, Beer, Spirits, Wine, or other Exciseable Liquors, or who shall be in Partnership with any Person as a Brewer, Maltster, Distiller, or Dealer in or Retailer of Ale, Beer, Spirits, Wine, or other Exciseable Liquors, shall act as such Justice of the Peace or Magistrate respectively in the Execution of this Act; nor shall any Justice of the Peace or Magistrate act in the granting of any Certificate when he shall be the Proprietor or Tenant of the House or Premises for which such Certificate shall be applied for; and every thing done by a Justice of the Peace or Magistrate respectively in any Case in which he is so disqualified to act shall be null and void; and every Justice of the Peace or Magistrate, who shall knowingly or wilfully offend in any of the Premises aforesaid, shall forfeit and pay the Sum of Fifty Pounds, to be recovered, by any Person who will prosecute for the same, before the Sheriff of the County, within Six Calendar Months next after the Offence has been committed.

Appeal as to Certificates.

XIV. And be it further enacted, That if any Justice of the Peace, or Proprietor or Occupier of any House in respect whereof any such Certificate shall be applied for, shall be dissatisfied with any Proceeding of any Justices or Magistrates assembled for granting Cer-

tificates as aforesaid, whether in granting or refusing or otherwise disposing of any such Application, it shall be lawful to such Justices of the Peace, Proprietor, or Occupier, to appeal therefrom to the next Quarter Sessions of the Peace for the County: Provided always, that such Appeal shall be lodged with the Clerk of the Peace within Ten Days after such Proceeding; and provided such Appellant, being a Proprietor or Occupier as aforesaid, shall find Caution to abide such Appeal and the Expences thereof, and shall give Intimation of such Appeal to the opposite Party, and to the Justices of whose Proceeding he complains.

Licensed Persons to use, in Sale of Liquors, Standard Measures.

XV. And be it further enacted, That every Person licensed to sell Exciseable Liquors by Retail, to be drunk or consumed in his House or Premises, shall sell or otherwise dispose of all such Liquors by Retail therein (except in Quantities less than Half a Pint), by the Gallon, Quart, Pint, or Half Pint Measure, sized according to the Standard, and shall, if required by any Guest or Customer purchasing such Liquor, retail the same in a Vessel sized according to such Standard, and in default thereof he shall forfeit and pay for every such Offence the illegal Measure and a Sum not exceeding Forty Shillings, to be recovered, with Expences, at the Instance of any Person who shall prosecute for the same, before the Sheriff or Justices of the Peace; and such Penalty shall be over and above all Penalties to which the Offender may be liable under any other Act.

Penalty on Clerk for unduly giving or refusing Certificate.

XVI. And be it further enacted, That if any Clerk of the Peace or Town Clerk respectively shall knowingly and wilfully issue or deliver any such Certificate as aforesaid, contrary to the Deliverance in such Book or Register, or to any Person not duly authorized to receive the same by the Justices or Magistrates assembled at such General or District Meeting, or if any such Clerk shall knowingly and wilfully insert any untrue Date in any such Certificate, or shall refuse to deliver such Certificate to any Person duly authorized as aforesaid to receive the same, every such Clerk shall for every such Offence forfeit the Sum of Twenty Pounds, to be recovered, by any Person who will prosecute for the same, before the Sheriff of the County, during the Period of One Year for which such Certificate appears to have been granted or ought to have been granted, or within Six Months after the Expiry of the said Period.

List of Certificates to be sent to the Excise Collector of the District.

XVII. And be it further enacted, That within Eight Days next after the Time during which such Meetings as aforesaid may be held respectively shall have expired, the Clerks of such Magistrates and Justices respectively shall transmit to the Collector or Supervisor of Excise in the particular Collection or District in which any such Certificate shall have been granted, a List of all the Persons there who have obtained such Certificates for that Collection or District for the current Year, which List shall be made out from the Books or Registers herein-before appointed to be kept by such Clerks respectively, and shall contain the same Heads and Titles, filled up according to the Deliverance signed by the Justices and Magistrates assembled at the Meeting; and every such List, when so made out, shall be duly certified by the Subscription of such Clerks respectively, and transmitted

as aforesaid; and such Clerk shall, upon the Delivery thereof, be entitled to receive from such Collector or Supervisor as aforesaid a Remuneration for his Trouble in making out the same, at and after the Rate of One Penny for the Name of each Person contained in such List, to whom it has been resolved that a Certificate shall be granted as aforesaid; and if any such Clerk shall refuse or neglect to make out and send such Lists as aforesaid, he shall for every such Offence forfeit the Sum of Five Pounds, to be recovered, by any Person authorized by the Commissioners of Excise to prosecute for it, before the Sheriff of the County, within Six Calendar Months next after the Offence has been committed.

No Licence to be granted to any Person unless he shall have obtained the Justices Certificate.

XVIII. And be it further enacted, That no Licence for the Sale of any Exciseable Liquors by Retail, to be drunk or consumed on the Premises of the Person licensed, shall be granted by the Commissioners of Excise, or by any Officer of Excise, to any Person whatsoever, unless such Person shall have previously obtained from the Justices a Certificate under this Act, and which said Certificate of such Justices shall be retained by such Person, after being produced to the Commissioners or Officers of Excise; and every Licence granted by the Commissioners of Excise, or by any Officer of Excise, contrary to this Provision, shall be null and void to all Intents and Purposes.

Certificates may be transferred.

XIX. Provided always, and be it enacted, That if any Person duly authorized to keep a common Inn, Alehouse, or Victualling House as aforesaid, shall die before the Expiration of the Certificate to him or her in that Behalf granted, it shall be lawful for any Two or more of the Justices of the Peace or Magistrates of the County or Royal Burgh respectively, in which such House and Premises are situated, to grant to the Executors, Representatives, or Disponees of the Person so dying, and who shall be possessed of such House or Premises, a Transfer of the Certificate to keep and continue such House or Premises as a common Inn, Alehouse, or Victualling House, as before such Death, until the next General or District Meeting to be held under the Authority of this Act; and provided also, in like Manner, that if any Person so authorized, or the Executors, Representatives, or Disponees of a Person dying so authorized, and who, upon such Death, shall have obtained such Transfer of Certificate as aforesaid, shall remove from or yield up the Possession of the House and Premises for which such Certificate shall have been granted, it shall be lawful for Two or more Justices of the Peace or Magistrates respectively as aforesaid, sitting publicly in their ordinary Place of Meeting, to grant to any new Tenant or Occupier of such House and Premises, upon such Removal, a Transfer of the Certificate to keep such House and Premises as a common Inn, Alehouse, or Victualling House, as before such Removal, until the next General or District Meeting to be held under the Authority of this Act.

Transfer of Certificate to be in the Form contained in the Schedule.

XX. And be it further enacted, That the Transfer Certificate to be granted on such Death or Removal as aforesaid shall be in the Form contained in the Schedule annexed to the Body of this Act, and therein designated by the Letter C., and shall be held on the same Terms and Conditions, and in the same Manner, as a Certificate granted

granted at any General or District Meeting, for which Transfer Certificate a Fee of One Shilling and no more shall be payable to the Clerk.

Penalties for Offences against the Terms of the Certificate.

XXI. And be it further enacted, That every Certificate to be granted under the Authority of this Act shall be and be held on the Terms, Provisions, and Conditions therein contained; and in case any Person or Persons authorized to keep a common Inn, Alehouse, or Victualling House under such Certificate, and having Excise Licences for the Sale of Ale, Beer, Spirits, Wine, or other Exciseable Liquors, to him or her in that Behalf granted, shall offend against any of the Terms and Conditions contained in such Certificate, every Person so offending shall for every such Offence forfeit and undergo the several

1st Offence.

Penalties and Disabilities herein-after mentioned; that is to say, for the First Offence the Sum of Five Pounds, with the Expences of Conviction, to be ascertained upon Conviction; and in case such Penalty and Expences shall not be paid within the Space of Fourteen Days next after such Conviction shall have taken place, the Offender shall suffer Imprisonment upon his own Charges and Expences, for a Period of One Calendar Month, in the Common Gaol or House of Correction, unless he or she shall sooner pay such Penalty, and the Expences of such Conviction, and of executing the same; and in addition to such Penalty, the Certificate granted to such Person may be declared to be forfeited and to become void and null;

2d Offence.

and for the Second Offence the Offender shall forfeit the Sum of Ten Pounds, with the Expences of Conviction, to be ascertained upon Conviction; and in case such Penalty and Expences shall not be paid within the Space of Fourteen Days next after such Second Conviction shall have taken place, then the Offender shall suffer Imprisonment upon his own Charges and Expences, for a Period of Two Calendar Months, in the Common Gaol or House of Correction, unless he or she shall sooner pay such Second Penalty, and the Expences of Conviction, and of executing the same; and in addition to such Penalty, the Certificate granted to such Person may be declared to be forfeited and to

3d Offence.

become void and null; and for the Third Offence, the Offender shall forfeit the Sum of Twenty Pounds, with the Expences of Conviction, to be ascertained upon Conviction; and in case such Penalty and Expences shall not be paid within Fourteen Days after such Conviction shall have taken place, then the Offender shall suffer Imprisonment upon his own Charges and Expences, for a Period of Four Calendar Months, in the Common Gaol or House of Correction, unless he or she shall sooner pay such Third Penalty, and the Expences of Conviction, and of executing the same; and in addition to such Penalty, the Certificate granted to such Person shall be declared to be forfeited and

Penalties may be mitigated.

to become void and null; and it is hereby provided and declared, that the several Penalties and Terms of Imprisonment before mentioned may be mitigated by the Court; provided always, that by such Mitigation such Penalties and Terms of Imprisonment respectively shall not be reduced to less than One Fourth Part thereof.

What shall be deemed 2d and 3d Offences.

XXII. And be it further enacted, That if any Person shall have been convicted of any Breach of the Terms and Conditions of the Certificate held by him or her in one Year as a First Offence, and such Person shall,

shall, in the following or any subsequent Year within Three Years after, be charged with a Breach of the Terms and Conditions of any other such Certificate subsequently obtained by such Person, and be thereof convicted, such Conviction shall be deemed and taken to be a Conviction for a Second Offence; and so in like Manner, if such Person shall be again convicted within Three Years, it shall be deemed and taken to be a Conviction for a Third Offence within the Meaning of this Act; and that notwithstanding of such Second or Third Offence being in breach of other and different Terms and Conditions, or of other and different Certificates obtained subsequently to the Certificate for the Breach of the Conditions of which the First or Second Conviction took place.

Manner of Complaint and Form of Procedure.

XXIII. And be it further enacted, That it shall be lawful for any Person or Persons to make Complaint unto and before the Sheriff, or before any Two or more Justices of the Peace for the County, or before the Court of any Royal Burgh within whose Jurisdiction the Person complained against shall reside, stating in such Complaint that the Defender is a Person keeping a common Inn, Alehouse, or Victualling House, under a Certificate to him or her in that Behalf granted, and selling Ale, Beer, Spirits, Wine, or other Exciseable Liquors by Retail under Excise Licences, and setting forth the particular Breach or Breaches of the Terms and Conditions of the Certificate complained of, and also whether it is the First, Second, or Third Offence, as the Case may be; and thereupon the Sheriff or Bailie, or the Justices to or before whom such Complaint shall have been made, shall grant a Warrant to the Officers of Court to summon the Party complained against to appear at a Time and Place to be specified in such Warrant and Summons, (such Summons being served at least Six free Days before the Diet of Appearance,) to attend the Hearing of such Complaint; at which Time and Place, if the said Party shall appear and plead to such Charge, or in case of his or her not Appearance, on Proof by the Oath of the Constable or other Officer of his having served such Summons as herein-after directed at least Six free Days prior to the Diet of Appearance, it shall be lawful for such Sheriff or Bailie, or Two or more Justices of the Peace, to inquire into the Truth of the Allegations in such Complaint, and on the same being proved, either by the Confession of the Party complained against, or by the Testimony on Oath (or Affirmation, if a Quaker) of One or more credible Witness or Witnesses, or upon other legal Evidence, to pronounce Judgment, and convict the Party of the Offence complained against, without any written Pleadings or Record of Evidence; it being hereby provided, that a Record shall be preserved of the Charge and of the Judgment pronounced: Provided always, that if such Sheriff, Bailie, or Justices shall see Cause, it shall be lawful to adjourn the Hearing of such Complaint to a subsequent Day, to be by them at that Time appointed; and it shall be lawful for any Sheriff, Bailie, or Justices, before whom Proceedings shall be had for the Recovery of any of the Penalties before mentioned, to summon before him or them any Witness or Witnesses, and to require them to produce any such Writings or Entries as may be required for the due Decision of the Case before them; and all such Records, to be so preserved as aforesaid, shall be in the Form contained in the

Schedule annexed to the Body of this Act, therein designated by the Letter D., or to such Effect.

Service of Notice to appear.

XXIV. And be it further enacted, That when any Warrant shall be issued for summoning any Person to appear and answer to any Complaint for committing a Breach of the Terms and Conditions of the Certificate to him or her in that Behalf granted, the directing such Summons to such Person by the Name in which such Certificate shall have been granted, or by the Name by which such Person is or has been usually known, whether the same be the real or assumed Name of such Person, and the leaving a Copy of the Complaint and of the Warrant for summoning such Person, with a Citation annexed, subscribed by the Officer, at the House, Outhouse, or Premises in which the Offence shall have been committed, or if Admittance cannot be obtained, the affixing a Copy thereof on the Door or other conspicuous Part of the Outside of such House or Premises, shall be deemed and taken to be as good, legal, and effectual a Summons as if the same had been personally delivered to the Party for whom such Summons was intended, and to whom the same was intended to be served.

Appeal to Quarter Sessions.

XXV. And be it further enacted, That if any Person shall consider himself or herself to be aggrieved by any Judgment, whether of Conviction or of Absolvitor, given upon any Complaint presented under this Act, by any Two or more Justices of the Peace, it shall be lawful to such Person to appeal therefrom to the Justices assembled at the next Quarter Sessions held for the County in which the Judgment so appealed against was given, which Justices are hereby authorized and required to hear and finally adjudge such Appeal: Provided always, that no such Appeal shall be heard, unless the Appellant shall, within Eight Days next after such Judgment, lodge his Appeal with the Clerk of such Justices of the Peace, and shall find Caution with such Clerk to abide such Appeal, and to pay such Sums as shall be finally awarded, and shall give Intimation of such Appeal by serving a Copy thereof upon the opposite Party within the said Period of Eight Days.

No Review to be had by a Superior Court.

XXVI. And be it further enacted, That no Process of Review by any Superior Court of the Judgments to be pronounced under this Act by such Justices of the Peace, Quarter Sessions, or Sheriffs, shall be competent, either by Advocation, Suspension, Reduction, or otherwise.

Clerk of the Peace to make a Duplicate of the Certificate when required, which shall be admitted as Evidence.

XXVII. And be it further enacted, That every Clerk of the Peace and Clerk of any Royal Burgh shall, when lawfully required, make out from the Books to be kept by them as aforesaid a Duplicate or Counterpart of any Certificate issued by them, for which he shall be entitled to receive a Fee of One Shilling; which Duplicate, being duly certified by such Clerk, shall be admitted as sufficient Evidence of the Facts therein contained, and of the Terms of such Certificate, in all Courts and legal Proceedings, without Production of the particular Certificate originally granted.

Convictions under this Act to be

XXVIII. And be it further enacted, That every Conviction under this Act for a Breach or Breaches of the Terms and Conditions of the Certificate

Certificate granted under the Authority of this Act shall, within Six Days after such Conviction, be transmitted by the Person who shall officiate as Clerk to the Justices or Magistrates at such Conviction to the Clerk of the Peace of the County, or Town Clerk of the Burgh, where the Party convicted shall reside, under a Penalty of Five Pounds, to be recovered by any Person who will prosecute for the same before the Sheriff of the County, within Six Months next after the Time when such Transmission ought to have been made; and such Clerk of the Peace and Town Clerk respectively shall keep such Convictions among the Records of the County or Town respectively, and shall also enter in the Book or Register required to be kept by them as aforesaid, and opposite to the Name of the Person therein entered to whom the same applies, the Date of the Conviction, specifying therein whether the same is the First, Second, or Third Conviction; and the said Book or Register shall be produced by the Clerk of the Peace and Town Clerk at every General or District Meeting of Justices and Magistrates to be held in pursuance of this Act.

transmitted to the Clerk of the Peace, and by him registered.

XXIX. And be it further enacted, That the Clerk of the Peace of every County, and the Town Clerk of every Royal Burgh, shall certify to the Commissioners of Excise in *Scotland*, or to the Collector or Supervisor of Excise in the particular Collection or District, the Conviction of every Person convicted of an Offence in Breach of the Conditions and Terms of his or her Certificate, by which Conviction such Certificate has thereupon been adjudged null and void, which Certificate of Conviction shall be transmitted to the said Commissioners of Excise, or Collector or Supervisor, within Six Days next after such Conviction shall have taken place, if such Clerk officiated as Clerk to the Justices or Magistrates at such Conviction, and if such Clerk did not so officiate, then within Six Days after such Conviction shall have been transmitted to him, on pain of the said Clerk of the Peace, or Town Clerk, forfeiting for every Neglect so to do the Sum of Five Pounds, to be recovered, by any Person who will prosecute for the same, before the Sheriff of the County, within Six Months next after the Transmission by this Act ought to have been made; and such Certificate of Conviction shall be in the Form contained in the Schedule annexed in the Body of this Act, and designated by the Letter E.

Clerk of the Peace to certify Convictions to the Commissioners of Excise.

XXX. And be it further enacted, That every Person in *Scotland*, who, after the Commencement of this Act, shall keep a common Inn, Alehouse, or Victualling House, and sell Ale, Beer, Spirits, Wine, or other Exciseable Liquors, by Retail, to be drunk or consumed on such Premises, or the Places immediately adjoining the same, without a Certificate to him or her in that Behalf granted, according to the Provisions of this Act, shall, upon his or her being convicted thereof, as herein-after mentioned, forfeit and pay for the First Offence the Sum of Seven Pounds, with the Expences of Conviction, to be ascertained upon Conviction; and in case such Penalty and Expences shall not be paid within the Space of Four Days next after such Conviction shall have taken place, the Offender shall suffer Imprisonment upon his own Charges and Expences, for a Period of Six Weeks,

Penalties for selling without Certificate.

1st Offence.

Weeks, in the Common Gaol or House of Correction, unless he or she shall sooner pay such Penalty, and the Expences of such Conviction, and of executing the same; and for the Second Offence the Offender shall forfeit the Sum of Fifteen Pounds, with the Expences of Conviction, to be ascertained upon Conviction; and in case such Penalty and Expences shall not be paid within the Space of Four Days next after such Second Conviction shall have taken place, then the Offender shall suffer Imprisonment upon his own Charges and Expences, for a Period of Three Calendar Months, in the Common Gaol or House of Correction, unless he or she shall sooner pay such Second Penalty, and the Expences of Conviction, and of executing the same; and for the Third Offence, the Offender shall forfeit the Sum of Thirty Pounds, with the Expences of Conviction, to be ascertained upon Conviction; and in case such Penalty and Expences shall not be paid within Four Days after such Conviction shall have taken place, then the Offender shall suffer Imprisonment upon his own Charges and Expences, for a Period of Six Months, in the Common Gaol or House of Correction, unless he or she shall sooner pay such Third Penalty, and the Expences of Conviction, and of executing the same; and it is hereby provided and declared, that the Penalties and Terms of Imprisonment before mentioned may be mitigated by the Court; provided always, that by such Mitigation such Penalties and Terms of Imprisonment shall not be reduced to less than One Fourth Part thereof: Provided always, that such respective Penalties shall be over and above any Penalty or Penalties which such Person so convicted may have incurred or paid, or be liable to pay, for or by reason of his or her selling such Ale, Beer, Spirits, Wine, or other Exciseable Liquors, under any Law or Laws relating to the Revenue of Excise: And provided also, that the said Penalties may be sued for and recovered before the Sheriff Court, or before any Two or more of the Justices of the Peace for the County, or the Court of the Royal Burgh, within whose Jurisdiction the Offender shall reside, by any Person who will inform and prosecute for the same, within Six Months after such Offence shall have been committed; and also, that the said Terms of Imprisonment may be imposed by the said Courts accordingly.

2d Offence.

3d Offence.

Penalties may be mitigated.

Recovery of Penalties.

Persons prosecuted may be convicted on their own Confession, or on the Oath of One Witness.

XXXI. And be it further enacted, That any Person prosecuted for keeping a common Inn, Alehouse, or Victualling House, and retailing as aforesaid, without such Certificate as aforesaid, may be legally convicted thereof on his or her own Confession, or on Proof by the Oath (or Affirmation, if a Quaker) of One or more credible Witness or Witnesses, or other legal Evidence; and all such Prosecutions shall be subject to the same Rules, Regulations, and Provisions, as Prosecutions for Breaches of the Terms of a Certificate granted under or by virtue of this Act, in so far as the same are applicable thereto.

Application of Penalties.

XXXII. And be it further enacted, That it shall be lawful for any Sheriff, Justices, or Magistrate, by whom Judgment shall be given for any Penalties under the Provisions of this Act, to award any Portion of the same, not in any Case exceeding One Moiety thereof, for the Use of the Prosecutor, and the Remainder to the Kirk Treasurer of the Parish within which the Offence was committed, or to any Public Asylum

Asylum or charitable Institution, as the said Sheriff, Magistrate, or Justices convicting shall think proper.

Limitation of Actions.

XXXIII. And be it further enacted, That every Action or Prosecution against any Sheriff, Justice of the Peace, Magistrate, Constable, or other Person, on account of any thing done in Execution of this Act, shall be commenced within Three Months after the Cause of Action or Prosecution shall have arisen, and not afterwards.

Penalty on Clerk taking illegal Fees.

XXXIV. And be it further enacted, That if any Clerk shall demand or receive any greater or additional Fee, or any other Reward, for any thing done under this Act, than is thereby expressly authorized, or than is authorized by the Schedule annexed to this Act, and designated by the Letter F., such Clerk so offending shall for every such Offence forfeit and pay the Sum of Five Pounds to any Person who may prosecute for the same.

Commencement of Act.

XXXV. And be it further enacted, That this Act shall commence and take effect from and after the First Day of *August* next after the passing of this Act.

Act may be repealed.

XXXVI. And be it further enacted, That this Act may be varied, amended, altered, or repealed by any Act to be passed in this present Session of Parliament.

## SCHEDULE to which this Act refers.

### A.

### FORM of REGISTER of APPLICATIONS.

| Nos. | Names and Designations. | Houses and Places. | Persons recommending. | How disposed of. | Convictions and Dates thereof. |
|---|---|---|---|---|---|
| 1. | | | | | |
| 2. | | | | | |

A similar Form for new Applications.

Deliverance.
(At the End of each Day's Register.)
At May.
Numbers 2. 3. 6. (*as the Case may be*) granted.
Numbers 1. 4. 5. refused.
Numbers 7 & 8. continued (*or otherwise disposed of*).

*G. H. P.*

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### (B.)

### FORM of CERTIFICATE.

AT a General Meeting for granting Publicans Certificates, held by His Majesty's Justices of the Peace acting in and for the County, [*or* of the Magistrates of the Royal Burgh, *as the Case may be*,] holden at within the said County [*or* Burgh], on the Day of in the Year One thousand eight hundred and for the Purpose of authorizing Persons to keep common Inns, Alehouses, and Victualling Houses, His Majesty's Justices of the Peace acting in and for the said County, [*or* the Magistrates of the Burgh,] assembled at the said Meeting, did authorize and empower *A.L.*, now dwelling at the Sign of the at in the Parish of and County [*or* Burgh] aforesaid, to keep a common Inn, Alehouse, or Victualling House, for the Sale in the said House, but not elsewhere, of

of Victuals and all such Exciseable Liquors as the said *A.L.* shall be licensed and empowered to sell under the Authority and Permission of any Excise Licence to him or her in that Behalf granted, on the Terms and Conditions following; that is to say, that the said *A.L.* do not fraudulently adulterate the Bread and other Victuals, Beer, Ale, and Liquors, sold by him, or sell the same, knowing them to have been fraudulently adulterated, and do not use in selling the same any Weights or Measures which are not of the legal Standard, and do not knowingly permit any Breach of the Peace or riotous or disorderly Conduct within the said House, Offices, or Premises; and do not knowingly permit or suffer Men or Women of notoriously bad Fame, or dissolute Girls and Boys, to assemble and meet therein; and do not permit or suffer any unlawful Games therein, whereby the Lieges may be cozened and cheated; and do not keep open House, or permit or suffer any drinking or tippling in any Part of the Premises thereunto belonging, during the Hours of Divine Service on Sundays, or other Days set aside for Public Worship by lawful Authority, nor keep the same open at unseasonable Hours; but do maintain good Order and Rule therein. This Certificate to continue in force, upon the Terms and Conditions aforesaid, from the Day of One thousand eight hundred and for the Twelve Calendar Months next following, and no longer.

The above Certificate is made out according to the Deliverance in the Book or Register appointed to be kept, in Terms of the Act of Parliament.

*C. D.* Clerk.

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(C.)

## TRANSFER of CERTIFICATE.

[*Place and Date.*] WHEREAS *A.L.*, designed in the within Certificate for keeping a common Inn, Alehouse, or Victualling House, at for the Retail of Exciseable Liquors under Excise Licences, has died: And whereas *M.N.*, his Executor, is desirous to have the said Certificate transferred to him, in order that he may carry on the said Business there, [*or as the Case may be, in the Event of Removals*]: And whereas it is considered by us, Two of the Justices of the Peace for the County of [*or* Two of the Magistrates of the Royal Burgh of ] that he is a Person fit to be intrusted to carry on the said Business there, we hereby transfer the said Certificate to him accordingly, subject to all the Conditions therein specified, in the same Manner as if he were the Person to whom it was originally granted; this Certificate to be of Force only until being the next General [*or* District] Meeting to be held for granting such Certificates; and to be duly presented for Entry at the Office of Excise, within Days from this Date, otherwise the same to be null and void to all Intents and Purposes.

*G. H.* J.P.
*M.N.* J.P.

## (D.)

## PROCEDURE for BREACH of CERTIFICATE.

### (1.) COMPLAINT.

Unto the Honourable His Majesty's Justices of the Peace for the County of , [*or* Sheriff *or* Magistrates of the Burgh, *as the Case may be.*]

Humbly complains *A. B.*

That *C. D.*, residing at who keeps a common Inn, Alehouse, or Victualling House there, under a Certificate in that Behalf granted, and who sells Ale, Beer, Spirits, [*or* other Exciseable Liquors,] therein by Retail, under Excise Licences, has been guilty of a Breach of the Regulations of the said Certificate, in so far as [*state the Particulars, Time, and Place of the Offence*], and such Offence is the First [Second *or* Third] Offence: May it therefore please your Honours to impose the Penalties and award the Expences incurred by him, in Terms of Law, or otherwise to grant Warrant for imprisoning him, in Terms of Law, and also to declare his Certificate to be forfeited.

*A. B.*

### (2.) WARRANT TO CITE.

[*Place and Date.*] The Justice [*or* Sheriff *or* Bailie], having considered this Complaint, grants Warrant to Constables to serve a Copy thereof, and of this Deliverance, upon the therein named and designed *C. D.*, and to cite him to appear personally to answer thereto, at upon the Day of at of the Clock Noon, with Certification; and also to cite Witnesses and Havers for both Parties, for the same Time and Place.

*G. H.* J. P.

### (3.) CITATION, [*to be annexed to a Copy of the Complaint and Deliverance.*]

In Terms of the Complaint and Deliverance, of which a Copy is prefixed, I Constable, hereby summon and warn you *C. D.* to compear personally before His Majesty's Justices of the Peace for the County of [*or* Sheriff *or* Magistrates], to answer to the Complaint, at upon the Day of at of the Clock Noon, with Certification.

*J. K.* Constable.

(4.) CONVICTION.

At the Day of One thousand eight hundred and in Presence of *G. H.* Esquire, of , and *J. K.* Esquire, of , Two of His Majesty's Justices of the Peace for the County of , [*or* Sheriff *or* Bailie,] compeared *C. D.*, and the Complaint being read over to him, he confessed the Offence therein charged.

*C. D.*
*G. H.* J.P.
*J. K.* J.P.

[*or*] compeared *C. D.*, and the Complaint being read over to him, he denied the same; but it was proved against him by the Oath of *R. S.* a credible Witness; [*or*] *C. D.* having failed to appear, and due Proof by the Oath of Constable, being made, that he had duly summoned the said *C. D.*, and the Complaint being read over, the same was proved against him by the Oath of *R. S.*, a credible Witness; and therefore the Justices [*or* Sheriff *or* Bailie] convict the said *C. D.* of the Offence charged against him, being a First [Second *or* Third] Offence, and find him liable in the Sum of Penalty, and adjudge him to pay to the Complainer the Sum of being a Part of said Penalty, and the Remainder to and also to pay the Sum of , being the of Penalty, and of Expences of the Conviction, and that within Days after the Date hereof, with Certification of Imprisonment; [*if the Certificate be declared to be forfeited, add*] and farther adjudge his Certificate to be void and null from this Date.

*G. H.* J.P.
*J. K.* J.P.

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(5.) WARRANT of IMPRISONMENT for Recovery of Penalty and Expences.

[*Place and Date.*] The Justices [*or* Sheriff *or* Bailie] in respect that the above-mentioned *C. D.* has not paid to the Sums of Penalty and Expences before-mentioned, within the Period allowed to him or her for doing so, which is now elapsed, grant Warrant to Constables of Court to apprehend him, and incarcerate him in the Tolbooth of , the Keepers whereof are hereby ordered to receive and detain him for the Period of from this Date, unless the said Sum shall be sooner paid.

*G. H.* J.P.
*J. K.* J.P.

*Note.*—The Proceedings against Persons selling Exciseable Liquors without having obtained a Certificate may be similar, *mutatis mutandis.*

(E.)

NOTICE of CONVICTION for Breach of Certificate, for which the Certificate has been forfeited.

Unto the Honourable the Commissioners of His Majesty's Excise in Scotland, or to the Collector of Excise of Collection or District in Scotland.

This is to certify, That *C. D.* of in the County [*or* Royal Burgh] of was, on the Day of in the Year One thousand eight hundred and at convicted before *G. H.* Esquire and *J. K.* Esquire, Two of His Majesty's Justices of the Peace for [*or as the Case may be*], for a Breach of the Conditions and Terms of the Certificate to him or her in that Behalf granted; and the Certificate of the said *C. D.* to keep a common Inn, Alehouse, or Victualling House, has by the foresaid Justices been adjudged null and void. Given under my Hand, this Day of in the Year One thousand eight hundred and

*S. K.* Clerk of the Peace.

(F.)

The following FEES, and no others, to be payable to the CLERKS acting under this Act.

| | *s.* | *d.* |
|---|---|---|
| Complaint - - - - - - | 2 | 0 |
| Citation - - - - | 1 | 0 |
| Each Witness - - - - - | 1 | 0 |
| Conviction - - - - - | 2 | 0 |
| Warrant - - - - - - | 2 | 6 |
| Lodging Appeal and finding Caution | 2 | 6 |
| Deciding Appeal - - - - | 2 | 6 |

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