STATUTORY INSTRUMENTS

1961 No. 45 (S. 1)

LICENSING (LIQUOR)

The Licensing (Scotland) Rules, 1961

Made - - - - 12*th January*, 1961
Coming into Operation 11*th February*, 1961

In exercise of the powers conferred on him by subsections (1) and (3) of section 129 of the Licensing (Scotland) Act, 1959(a) (hereinafter referred to as "the Act"), the Secretary of State hereby makes the following Rules for regulating the procedure of licensing courts in the exercise of the powers conferred on them by sections 123 and 126 of the Act:—

Citation and Commencement

1. These Rules may be cited as the Licensing (Scotland) Rules, 1961, and shall come into operation on the eleventh day of February, 1961.

Interpretation

2. The Interpretation Act, 1889(b), shall apply for the interpretation of these Rules as it applies for the interpretation of an Act of Parliament and as if these Rules and the Rules hereby revoked were Acts of Parliament.

Revocation

3. The Licensing (Scotland) Rules, 1921(c), are hereby revoked.

Exercise of powers of licensing court under section 123 *of the Act*

4.—(1) A proposal to make or vary an order under section 123 of the Act shall not be considered by a licensing court at their general half-yearly meeting in March unless the clerk to the court has, not earlier than thirty nor later than seven days before the first day of such meeting, caused notice of the proposal in, or as nearly as may be in, Form I set out in the Schedule to these Rules to be published by means of an advertisement in each of two successive weeks in a newspaper circulating within the licensing area of the court.

(2) A licensing court shall take such steps as they think fit to ascertain local opinion with respect to a proposal to make or vary an order under section 123 of the Act and for this purpose shall have power to entertain representations thereon or objections thereto from any person.

Publication of orders under section 123 *of the Act*

5. Where a licensing court make an order under section 123 of the Act, the clerk to the court shall forthwith cause such order to be published by means of an advertisement in each of two successive weeks in a newspaper circulating within the licensing area of the court, and, where the order affects registered clubs, the clerk shall forthwith send a copy thereof to the sheriff clerk for the county within which the premises of such clubs are situated.

(a) 7 & 8 Eliz 2. c. 51. (b) 52 & 53 Vict. c. 63.
(c) S.R. & O. 1921/1512 (Rev. XI, p. 70: 1921, p. 344).

Exercise of powers of licensing court under section 126 of the Act

6.—(1) Where any person wishes to apply section 126 of the Act to any premises, he shall, not later than fourteen days before the first day of the general half-yearly meeting in March of the licensing court within whose area such premises are situated, lodge with the court an application in, or as nearly as may be in, Form IV set out in the Schedule to these Rules for a declaration by the court that they are satisfied that the premises are structurally adapted and *bona fide* used, or intended to be used, for the purpose of habitually providing, for the accommodation of persons frequenting the premises, substantial refreshment to which the sale and supply of exciseable liquor is ancillary, and if after such enquiry as they think fit the court are satisfied as aforesaid, they shall make such declaration.

(2) The clerk to the licensing court shall forthwith intimate the decision of the court on an application under the foregoing paragraph to the applicant and to the chief constable and, where the application related to the premises of a club, to the sheriff clerk for the county within which those premises are situated.

7.—(1) Subject to the provisions of the next following paragraph, a licensing court at their general half-yearly meeting in March may, either of their own accord or on a report by the chief constable lodged with the clerk to the court not later than fourteen days before the first day of such meeting, review any declaration made by them under Rule 6 of these Rules, and if the court do not remain satisfied as mentioned in such declaration, they shall withdraw the declaration.

(2) The licensing court shall not review such a declaration at their general half-yearly meeting in March unless the clerk to the court has given to the holder of the certificate or, as the case may be, the secretary of the registered club concerned not less than seven days' notice in writing of the intention of the court to review the declaration and the court shall hear any objections to the withdrawal of the declaration made by or on behalf of such holder or secretary and may make such other enquiry into the matter as they think fit.

(3) Where the licensing court withdraw any such declaration, the clerk to the court shall forthwith intimate the withdrawal—

(*a*) where the declaration related to licensed premises, to the holder of the certificate in respect of those premises;

(*b*) where the declaration related to the premises of a registered club, to the secretary of the club and to the sheriff clerk of the county within which those premises are situated;

(*c*) in any case, to the chief constable.

Form of orders and declarations

8. Any order made under section 123 of the Act by a licensing court shall be in, or as nearly as may be in, Form II or, as the case may be, Form III set out in the Schedule to these Rules, and any declaration made under Rule 6 of these Rules by a licensing court shall be in, or as nearly as may be in, Form V set out in that Schedule.

General Procedure

9. Subject to the foregoing provisions of these Rules, the powers of a licensing court under sections 123 and 126 of the Act shall be exercised in

accordance with the procedure ordinarily adopted with respect to the business of the court, and the provisions of the Act in relation to such procedure shall apply accordingly.

Given under the seal of the Secretary of State for Scotland this twelfth day of January, 1961.

J. Anderson,
Secretary.

Scottish Home Department,
St. Andrew's House,
Edinburgh, 1.

SCHEDULE

Form I

NOTICE OF PROPOSAL TO MAKE [*or* VARY] AN ORDER UNDER SECTION 123 OF THE LICENSING (SCOTLAND) ACT, 1959

Notice is hereby given that at the general half-yearly meeting of the licensing court for the county [*or* licensing district *or* burgh] of to be held at on the day of , a proposal will be considered for making an order under subsection (1) of section 123 of the Licensing (Scotland) Act, 1959, fixing the permitted hours on weekdays in licensed premises in the said county [*or* licensing district *or* burgh] *or* for varying an order dated the day of , made by the said licensing court under subsection (1) of section 123 of the Licensing (Scotland) Act, 1959, which fixed the permitted hours on weekdays in licensed premises in the said county [*or* licensing district *or* burgh] *or* for making an order under subsection (2) of section 123 of the Licensing (Scotland) Act, 1959, modifying the permitted hours on weekdays in licensed premises in the said county [*or* licensing district *or* burgh] *or* for varying an order dated the day of , made by the said licensing court under subsection (2) of section 123 of the Licensing (Scotland) Act, 1959, which modified the permitted hours on weekdays in licensed premises in the said county [*or* licensing district *or* burgh].

The effect of the said proposal, if adopted by the licensing court, would be [*here state in detail the effect of the proposal*].

Under Rule 4 (2) of the Licensing (Scotland) Rules, 1961, the licensing court is empowered to entertain representations or objections from any person in regard to the said proposal. Any such representations or objections should be intimated to the clerk to the court before the meeting on

Signed

Clerk to the court.

Form II

ORDER OF LICENSING COURT UNDER SUBSECTION (1) OF SECTION 123 OF THE LICENSING (SCOTLAND) ACT, 1959

The licensing court for the county [*or* licensing district *or* burgh] of assembled at their general half-yearly meeting at on the day of , hereby order that on and after the permitted hours on weekdays in licensed premises in the said county [*or* licensing district *or* burgh] shall be as follows:—
[*Here specify hours*]

Signed

Clerk to the court.

Form III

ORDER OF LICENSING COURT UNDER SUBSECTION (2) OF SECTION 123 OF THE LICENSING (SCOTLAND) ACT, 1959

The licensing court for the county [*or* licensing district *or* burgh] of assembled at their general half-yearly meeting at on the day of , being satisfied that the special requirements of the said county [*or* licensing district *or* burgh] render it desirable, hereby order—

*(*a*) that on and after the permitted hours on weekdays in licensed premises in the said county [*or* licensing district *or* burgh] shall be eight and a half and shall end not later than half past ten in the evening;

*(*b*) that on and after the permitted hours on weekdays in licensed premises in the said county [*or* licensing district *or* burgh] may begin at [*here specify hour earlier than eleven but not earlier than ten in the morning when permitted hours may begin*].

Signed

Clerk to the court.

* If only one of these orders is made, delete the paragraph which is inapplicable.

Form IV

APPLICATION FOR A DECLARATION UNDER RULE 6 OF THE LICENSING (SCOTLAND) RULES, 1961

With a view to applying section 126 of the Licensing (Scotland) Act, 1959, to the premises known as [*give name and address of premises and add where appropriate* being the premises occupied by the club], I hereby apply [*add where appropriate* on behalf of the committee of the said club] for a declaration by the licensing court under Rule 6 of the Licensing (Scotland) Rules, 1961, that the court are satisfied that the premises are structurally adapted and *bona fide* used [*or* intended to be used] for the purpose of habitually providing, for the accommodation of persons frequenting the premises, substantial refreshment to which the sale and supply of exciseable liquor is ancillary.

In support of the application:—

(*a*) [*Here give particulars as to the accommodation and facilities for providing substantial refreshment*]

(*b*) [*Here give any other relevant particulars*]

Signed

Holder of [*or* applicant for] certificate *or* Secretary of club *or* agent for any of the above.

The clerk to the licensing court for the county [*or* licensing district *or* burgh] of

Form V

DECLARATION UNDER RULE 6 OF THE LICENSING (SCOTLAND) RULES, 1961

The licensing court for the county [*or* licensing district *or* burgh] of assembled at their general half-yearly meeting at on the day of , hereby declare that they are satisfied that the licensed premises at [*or* the premises at occupied by the club], are structually adapted and *bona fide* used [*or* intended to be used] for the purpose of habitually providing, for the accommodation of persons frequenting the premises, substantial refreshment to which the sale and supply of exciseable liquor is ancillary.

Signed

Clerk to the court.

EXPLANATORY NOTE

(This Note is not part of the Rules, but is intended to indicate their general purport.)

These Rules, which revoke and replace the Licensing (Scotland) Rules, 1921, prescribe the procedure to be adopted by licensing courts in the exercise of the powers conferred on them by sections 123 and 126 of the Licensing (Scotland) Act, 1959, and the manner in which orders made under the said section 123 by licensing courts are to be published. They are consequential on the consolidation of the Scottish licensing legislation effected by the said Act of 1959 and they clarify and make more explicit the existing procedure.