STATUTORY INSTRUMENTS

1962 No. 1881 (S. 75)

LICENSING (LIQUOR)

The Licensing (Scotland) Rules 1962

Made - - - - 23*rd August* 1962
Coming into Operation 1*st October* 1962

In exercise of the powers conferred on him by section 129 (1) of the Licensing (Scotland) Act 1959(**a**), as amended by paragraph 22 of Schedule 2 to the Licensing (Scotland) Act 1962(**b**), and by virtue of section 37 of the Interpretation Act 1889(**c**), 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 section 126 of the said Act of 1959, as amended by section 7 of the said Act of 1962, and sections 6 and 8 of the said Act of 1962:—

Citation and Commencement

1. These Rules may be cited as the Licensing (Scotland) Rules 1962 and shall come into operation on 1st October 1962.

Interpretation

2.—(1) In these Rules "the Act of 1959" means the Licensing (Scotland) Act 1959 and "the Act of 1962" means the Licensing (Scotland) Act 1962.

(2) Unless the context otherwise requires, expressions used in these Rules and in the Licensing (Scotland) Acts 1959 and 1962 shall have the same meaning in these Rules as they have in those Acts.

(3) The Interpretation Act 1889 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 1961(**d**) are hereby revoked.

Exercise of powers of licensing court under section 126 of the Act of 1959 and sections 6 and 8 of the Act of 1962

4.—(1) Where any person wishes to apply section 126 of the Act of 1959 or section 6 of the Act of 1962 to any premises (being premises in respect of which a hotel or a public house certificate is held or is being applied for under the Act of 1959, or the premises of a club in respect of which a certificate of registration is in force or is being applied for under Part XI of that Act), or where any person wishes to apply section 8 of the Act of 1962 to any premises, he (or, in the case of a club, the secretary thereof) shall lodge with the licensing court within whose area such premises are situated an application for a declaration by the court that they are satisfied—

(*a*) where the applicant wishes to apply the said section 126 to the premises, 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;

(**a**) 7 & 8 Eliz. 2. c. 51. (**b**) 10 & 11 Eliz. 2. c. 51. (**c**) 52 & 53 Vict. c. 63.
(**d**) S.I. 1961/45 (1961 I, p. 101).

(*b*) where the applicant wishes to apply the said section 6 to the premises, that the premises are structurally adapted and *bona fide* used, or intended to be used, for the purpose of habitually providing the customary main meal at midday for the accommodation of persons frequenting the premises ;

(*c*) where the applicant wishes to apply the said section 8 to the premises, that the premises are structurally adapted and *bona fide* used, or intended to be used, for the purpose of habitually providing the customary main meal at midday or in the evening, or both, for the accommodation of persons frequenting the premises, and that the part of the premises mentioned in subsection (3) of that section does not contain a bar counter ;

and, if after such enquiry as they think fit the court are satisfied as aforesaid. they shall make the declaration applied for.

(2) The licensing court shall not consider any application made to them under this Rule at any meeting of the court held earlier than fourteen days after the date on which the application was lodged with the court.

(3) The clerk to the licensing court shall forthwith intimate the decision of the court on an application made to them under this Rule 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.

5.—(1) Subject to the provisions of paragraph (2) of this Rule, a licensing court may at any meeting of the court, either of their own accord or on a report lodged with the court by the chief constable, review any declaration made by them under Rule 4 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 unless the clerk to the court has given to the holder of the certificate or, as the case may be, to the secretary of the 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 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 applications and declarations

6. An application to a licensing court under Rule 4 of these Rules, and a declaration by a licensing court under the said Rule 4, shall be in, or as nearly as may be in, the appropriate form set out in the Schedule to these Rules.

General Procedure

7. Subject to the foregoing provisions of these Rules, the powers of a licensing court under section 126 of the Act of 1959 and under sections 6 and 8 of the Act of 1962 shall be exercised in accordance with the procedure

ordinarily adopted with respect to the business of the court, and the provisions of the Licensing (Scotland) Acts 1959 and 1962 in relation to such procedure shall apply accordingly.

Given under the seal of the Secretary of State for Scotland.

J. Anderson,
Secretary.

Scottish Home and Health Department,
St. Andrew's House,
Edinburgh, 1.
23rd August 1962.

SCHEDULE

FORM OF APPLICATION TO A LICENSING COURT FOR A DECLARATION UNDER RULE 4 OF THE LICENSING (SCOTLAND) RULES 1962

With a view to applying section 126 of the Licensing (Scotland) Act 1959 [*or, as the case may be,* section 6 *or* section 8 of the Licensing (Scotland) Act 1962] 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 said club] for a declaration by the licensing court under Rule 4 of the Licensing (Scotland) Rules 1962 that they are satisfied—

[*where the applicant wishes to apply section* 126 *to the premises*] 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;

[*where the applicant wishes to apply section* 6 *to the premises*] that the premises are structurally adapted and *bona fide* used [*or* intended to be used] for the purpose of habitually providing the customary main meal at midday for the accommodation of persons frequenting the premises;

[*where the applicant wishes to apply section* 8 *to the premises*] that the premises are structurally adapted and *bona fide* used [*or* intended to be used] for the purpose of habitually providing the customary main meal at midday or in the evening, or both, for the accommodation of persons frequenting the premises, and that the part of the premises mentioned in subsection (3) of the said section 8 does not contain a bar counter.

In support of the application:—

(*a*) [*Here give particulars as to the accommodation and facilities for providing substantial refreshment or customary main meals.*]

(*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 OF DECLARATION BY A LICENSING COURT UNDER RULE 4 OF THE LICENSING (SCOTLAND) RULES 1962

The licensing court for the county [*or* licensing district *or* burgh] of , assembled at on the day of , hereby declare that they are satisfied [*where the applicant wishes to apply section* 126 *of the Licensing* (*Scotland*) *Act* 1959 *to the premises*] that the licensed premises at [*or* the premises at occupied by the club] 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 [*or, as the case may be, where the applicant wishes to apply section* 6 *or section* 8 *of the Licensing* (*Scotland*) *Act* 1962 *to the premises*].

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 1961, prescribe the procedure to be adopted by licensing courts in the exercise of the powers conferred on them by section 126 of the Licensing (Scotland) Act 1959, as amended by section 7 of the Licensing (Scotland) Act 1962, and sections 6 and 8 of the said Act of 1962.