

THE SPIRIT LICENCE ACT

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SCHEDULES

THE SPIRIT LICENCE ACT

[1st February, 1928.]

Cap. 364.
Laws
65 of 1954,
26 of 1955,
19 of 1960.
Acts
42 of 1969
3rd Sch.,
12 of 1985
Sch.,
23 of 1988,
23 of 1993,
11 of 2004
6th Sch.,
10 of 2012.

1. This Act may be cited as the Spirit Licence Act.

2. In this Act—

“alcoholic liquor” means spirits, wine or beer, or any mixture, beverage, or preparation containing the same;

“applicant” means a person applying for a licence under this Act;

“beer” means liquor fermented from malted barley or other malted grain or any substitute for malted grain; this term includes ale, stout, porter, spruce beer, black beer, and any description of beer; and also any liquor which is made or sold as a description of beer or as a substitute for beer, containing more than two *per centum* of proof spirit;

“Clerk” means the Clerk of the Courts for the parish in which anything is done or required to be done;

“club” means a club registered as a proprietary club under the Registration of Clubs Act for the time being in force and in which any intoxicating liquor is supplied;

“Collector” means the Collector, or Assistant Collector of Taxes for the parish as aforesaid;

“compounder” means a person preparing compounds;

“compounds” means spirits which have been prepared in the Island by adding any ingredient or flavouring to rum or any other spirit;

Short title.

Interpretation.

- “estate” means any estate, plantation or other landed property whereon any spirit is distilled or manufactured;
- “foreign liqueurs” means spirits flavoured or sweetened and imported into the Island by whatever name the same are sold;
- “guest” means a person using any licensed premises for lodging during the night or taking a meal therein;
- “hotel” means a house where the business of providing adequate lodging and board for guests and also sufficient stabling or garage accommodation is the principal business carried on and where the sale of spirituous liquors is carried on only as subsidiary to such business;
- “house” and “premises” include every room and place under the same roof or within the same curtilage occupied with or as appurtenant to any house, premises, room or place;
- “licence” means any licence granted under this Act;
- “licensed” (as regards persons or premises) means the person to whom a licence is issued and the premises in which a trade is licensed to be carried on under this Act;
- “Licensing Authority” means the persons appointed as such in each parish of the Island;
- “police inspection” means inspection by the Constabulary and this term includes a right of inspecting and taking copies of all books and entries therein;
- “retail” and “retailer” mean the trade of selling alcoholic liquor for consumption on or off the licensed premises without restriction as to quantity and the person carrying on such trade respectively;

“sale” includes “barter” and any delivery of spirits by one person to another for value; and every delivery of spirits shall be deemed and presumed to be for value and in pursuance of a sale, unless the circumstances under which any such delivery is made, negative such presumption;

“spirits” means any liquid containing alcohol the product of distillation; including the spirits known or sold as rum, brandy, whisky, gin, hollands, and arrack, and all other distilled spirit, whether usually sold under any of the aforesaid names or any other name; and this term also includes for the purposes of this Act all liqueurs, compounds and other mixtures intended for drinking and prepared from or mixed with spirits, and all beverages, whether purporting to be wine, beer, or other fermented liquors or not, containing a greater proportion than *forty per centum* of proof spirit either due to fermentation or added;

“Superintendent” means the principal Officer of Constabulary for any such parish as aforesaid;

“tavern” means a house in which spirits are sold only for consumption on the premises and in which adequate accommodation is available for guests and also for sufficient stabling or garage accommodation;

“traveller” means a person who within prohibited hours may be lawfully served with intoxicating liquors by a retailer of spirits or wine, a person who when so served is not less than five kilometres distant by the nearest public thoroughfare from the place where he lodged the previous night;

“wine” means fermented grape juice, and all liquor sold or offered for sale as wine or under any name by which any wine is known; and for the purposes

23/1993
S. 2 (b).

of this Act "wine" includes cider and perry and the fermented juice of any fruit.

Spirits not
to be sold
without
licence.

3. Save as herein specially excepted, or hereby specially permitted, no spirits shall be sold either by wholesale or by retail in this Island, except by persons thereunto duly licensed under this Act, or on their behalf by persons in their immediate employment, and then only in conformity with the terms of the licence held by such persons, as set forth in this Act. Any person who without being at the time of such sale duly licensed so to do, or otherwise in conformity with the terms of his licence, shall, either personally or through or by any agent or servant, sell any spirits, or who shall permit any spirits to be sold in any house in his occupation, shall be deemed in respect of each and every such sale to have committed an offence against this Act and shall on summary conviction be liable to a penalty not exceeding five thousand dollars or in default of payment thereof to imprisonment with or without hard labour for any term not exceeding six months. In any proceedings under this section, it shall lie on the defendant to prove that he is licensed under this Act.

23/1993
S. 3.

Sales
exempted.

4. Nothing in this Act contained shall apply to the case of—

- (a) any person in charge of any estate whereon spirits are manufactured, selling any spirits manufactured thereon subject to the provisions of any enactment for the time being in force relating to rum duty or any enactment that has been or may be passed in amendment of or substitution for the same;
- (b) any person who shall sell his private stock or supply of spirits not exceeding two hundred and twenty-five litres amongst his effects at any sale thereof on departing from or otherwise winding up his affairs in this Island;

23/1993
S. 4.

- (c) any person licensed as a retailer in this Island who shall on the absolute and *bona fide* transfer of any business and sale of the whole stock in trade thereof, or of any share or interest therein, sell the same to the purchaser thereof, or of any interest therein, though such stock-in-trade shall consist of or comprise spirits exceeding the amount which the vendor in terms of his retail licence is authorized by this Act to sell;
- (d) any officer or person who, without any licence under this Act, shall sell any spirits under any process of law;
- (e) the personal representative of any person licensed under this Act who shall die, or the assignees or trustees of any person licensed as aforesaid, who shall be declared or become bankrupt, selling any spirits which shall come to them in any of the characters aforesaid, and who shall sell any such spirits in the same way and subject to the same restrictions as the licensee could have done under his licence, if he had not died or become bankrupt;
- (f) the personal representative of any person, not licensed under the provisions of this Act, who shall die or the assignee or trustee of any person not licensed as aforesaid who shall become bankrupt, leaving among his assets or estate a private stock or supply of spirits;
- (g) any person—
 - (i) who having had his licence forfeited; or
 - (ii) who having had a licence for the preceding year and failing to obtain from the Licensing Authority a licence for the ensuing year,

shall sell his stock of spirits in bulk within one month of such forfeiture or failure.

And any sales permitted under the provisions of paragraphs (b), (c), (d) and (g) may be made by any auctioneer or other agent of the party entitled to sell as herein provided.

Description
of licences.

5. The following description of licences may be granted under the provisions of this Act—

- (i) a wholesale licence;
- (ii) a town retail licence;
- (iii) a town-off licence;
- (iv) a village retail licence;
- (v) a tavern licence;
- (vi) an hotel licence;
- (vii) an occasional special licence;
- (viii) a special hotel licence;
- (ix) a club licence,

and they shall respectively confer on the persons holding the same the rights following, that is to say—

23/1993
S. 5 (a).

(a) a wholesale licence shall entitle the holder to sell, at any one time, not less than the quantities specified hereunder—

(i) rum	two hundred and twenty-five litres
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(ii) imported spirit except liqueurs and compounds	one hundred and fifteen litres in bulk
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or

one dozen reputed
litres

or

two dozen reputed
half-litre bottles

- (iii) liqueurs and
compounds
and other
mixtures
intended for
drinking and
prepared from
or mixed with
spirit and
beverages,
whether
purporting
to be wine,
beer or other
fermented
liquors or not,
containing a
greater
proportion
than forty
per centum of
proof spirit
either due to
fermentation
or added

one case containing
nominally four and
one-half litres;

- (b) a town retail licence shall entitle the holder to sell spirits in any quantities not exceeding those above named but only in and upon the house named in the licence as that in respect of which the licence is granted and for consumption on or off the licensed premises;
- (c) a town-off licence shall entitle the holder to sell spirits in any quantities not exceeding those above mentioned but only in and upon the house named in the licence as that in respect of which the licence is granted and for consumption only off the licensed premises;
- (d) a village retail licence shall entitle the holder to sell spirits in any quantities not exceeding those mentioned in paragraph (a) but only in and upon the house named in the licence as that in respect of which the licence is granted, and for consumption on or off the licensed premises;
- (e) a tavern licence shall entitle the holder to sell spirits but only in and upon the house named in the licence, as that in respect of which the licence is granted and for consumption on the licensed premises;
- (f) an hotel licence shall entitle the holder to sell spirits but only in and upon the house named in the licence as that in respect of which the licence is granted and only for consumption on the licensed premises and only to guests or to *bona fide* travellers arriving thereat in need of refreshment:

Provided that no person shall be deemed a *bona fide* traveller whose usual residence is within five kilometres of the hotel at which he applies for refreshment;

- (g) a club licence shall entitle the holder to sell spirits in and upon the club premises named in the licence as those in respect of which the licence is granted for consumption on the club premises.

The said several licences shall be in the several forms given in the Second Schedule or as near thereto as circumstances will permit.

Second
Schedule.

6. Every licence which shall be granted under this Act shall, except as in this Act otherwise specially provided, continue in force from the date thereof until the then next succeeding thirty-first day of March, unless forfeited as hereinafter provided. Every licence granted under the provisions of this Act at the sessions immediately preceding the first day of April in any year, shall bear date the first day of April then next, and shall be deemed to license the holder to sell spirits according to the tenor thereof, as and from the said first day of April.

Duration of
licences.

7. Each licence granted under this Act shall authorize the holder to sell spirits according to its tenor and not otherwise, and any licensed persons selling spirits otherwise than according to the tenor of his licence shall, in respect of any such sale, be deemed to be unlicensed to all intents and purposes :

Authority
conferred by
licences.

Provided that it shall be competent to any person, subject to the provisions of this Act, to apply for and to hold all or any one or more licences grantable under this Act.

8. No licence under this Act shall be granted on any estate whereon rum or other spirits are manufactured, or at any place within a distance of four hundred metres from any distillery in which spirits are manufactured, otherwise than with and subject to the sanction in writing of the Minister. Such sanction shall be necessary each time the licence is granted.

Licences
not to be
granted
within
four
hundred
metres of
distillery
without
sanction of
Minister.
23/1993
S. 6 (a) (b).

Presumption
of sale on
supply of
spirits.

9. When any person shall supply another with food or aerated or other drink and spirits, and receive payment, the presumption that such supply of spirits was in pursuance of a contract of sale, shall not be rebutted by any suggestion, allegation, or pretence that the payment was in respect of the food or aerated or other drink only.

Licences.

10.—(1) (a) For each licence applied for and granted under this Act there shall be paid the respective duties set out in the First Schedule;

First
Schedule.

(b) the House of Representatives, by resolution to be moved at the instance, or by the direction of the Minister, or with his express approval, may remove the name of any town or place from item (3) in the First Schedule relating to town retail licences, or tavern licences, or off licences, and similarly may add the name of any town or place to such item.

(2) Every applicant for a licence under this Act must satisfy the Licensing Authority that he is able to read and write the English language and to keep account books in English. All such account books shall be open at all reasonable times to police inspection or by any Justice of the parish :

Provided that no person making such inspection as aforesaid shall communicate the information so obtained except for the purpose of the administration of justice.

(3) The Justice, or other person making such inspection shall note in such books the date of his inspection and shall sign his name to such noting.

(4) All wholesale licences granted under this Act shall bear date and come into force on the day on which they are issued.

(5) Every licence under this Act shall be impressed with a stamp of the value of forty dollars, and the said sum of forty dollars shall in all cases be paid to the Collector together with the licence duty.

23/1993
S. 7.

11. Any person desirous of obtaining a wholesale licence shall pay to the Collector the licence duty and stamp fee payable under the provisions of this Act in respect of the same, and the Collector shall thereupon give to such person a receipt for the same, and shall set forth on such receipt the particulars of the licence in respect of which such duty is paid, and thereupon the Clerk, on presentation to him of the said receipt, shall grant to such person a licence in conformity with the terms of such receipt. No licence, other than a wholesale licence, shall be granted by the Clerk, except on the authority and direction of the Licensing Authority given under the provisions hereinafter contained.

Procedure
for obtain-
ing whole-
sale licence.

Licensing Authority

12.—(1) For the purpose of dealing with applications for licences other than wholesale licences and occasional licences and for carrying out the provisions of this Act the Minister shall constitute in each parish a Licensing Authority and shall appoint, subject to subsection (1A), not less than five or more than seven Justices to be members thereof who shall—

Constitution
of Licensing
Authority.
23/1993
S. 8 (a).

- (a) be resident in the parish for which they are appointed;
- (b) hold office for a period of one year from the date of appointment; and
- (c) be eligible for re-appointment.

(1A) A Justice who—

- (a) is licensed to sell spirits within the parish; or

23/1993
S. 8 (a).

(b) is directly or indirectly pecuniarily interested in any licence or in any application therefor, or for a transfer thereof under this Act; or

(c) is in any manner directly or indirectly interested in the manufacture or sale of spirit,

shall not be competent to be appointed or sit as a member of a Licensing Authority.

23/1993
S. 8 (a).

(2) The Minister shall appoint one of the members of the Licensing Authority to be the chairman thereof and another member to be the vice-chairman who shall preside at all meetings in the absence of the chairman.

Quorum.
26/1955
S. 2

(3) Three members including the chairman or vice-chairman shall form a quorum for the transaction of business and for the exercise of the powers of the Licensing Authority under the provisions of this Act.

The chairman, or in his absence, the vice-chairman shall have the right to vote on a question on any matter on which the Licensing Authority is divided and in the event of the division of the votes being equal he shall have also a casting vote.

Vacancies
may be
filled by
Minister.

(4) The Minister may fill any vacancy in the Licensing Authority caused by the death, resignation, illness, absence from the Island, or inability to act of any member thereof, or in any other manner whatsoever and may revoke the appointment of any member so appointed by him.

Vacancy not
to invalidate
authority.

(5) Notwithstanding any temporary vacancy or vacancies in the body of members composing the Licensing Authority the same shall be deemed to be fully constituted for the purposes of this Act.

Offence for
Justice of
the Peace to
sit when not
competent.

(6) Any Justice sitting at a session of the Licensing Authority when it is not competent for him to do so shall be guilty of an offence and shall be liable on summary

conviction to a penalty not exceeding two thousand dollars, and any licence or the transfer thereof in which he is interested, granted when he is sitting, shall be forfeited on his being fined.

23/1993
S. 8 (b)

(7) For the purposes of this Act the parishes of Kingston and St. Andrew shall be deemed to be separate and distinct parishes:

Kingston
and St.
Andrew
deemed
separate
parishes.

Provided, however, notwithstanding anything to the contrary in this Act any Justice for the parish of Kingston may be appointed by the Minister a member of the Licensing Authority for Kingston though such Justice is resident in the parish of St. Andrew, and similarly any Justice for the parish of St. Andrew may be appointed a member of the Licensing Authority for the parish of St. Andrew though such Justice is resident in Kingston.

Sittings of Licensing Authority

13.—(1) For the purpose of dealing with applications for licences other than wholesale licences, special hotel licences and occasional licences and also for transfers of licences under this Act, the Licensing Authority of each parish shall hold such number of sessions for such parish at the court house at the head station thereof or at such other convenient court, as is necessary for the proper exercise of the functions of the Licensing Authority, so, however, that at least one session shall be held in each quarter of each year.

Licensing
sessions.
23/1993
S. 9.

(2) The holding of any such session shall be notified by the Clerk in the *Gazette* and in a newspaper printed and circulating in the Island at least one month before the day of the session.

14. Every application for any one of the licences with which the Licensing Authority is empowered to deal, or for a transfer thereof, shall be made at one of the sessions aforesaid:

Applica-
tions to be
made at
sessions.

Provided that if all applications made at any such sessions shall not be disposed of in one day, such sessions shall be adjourned from time to time to any convenient day and the Licensing Authority may adjourn the hearing of the applications to any place in the parish at which a Resident Magistrate's Court is held :

Provided further that no application as aforesaid shall be entertained at any such sessions unless it is made within the time fixed by this Act for making the same and in accordance with the provisions of this Act.

15. [*Deleted by Act 23 of 1993.*]

Application for Licences

Applications
for licences,
how and
when made.

16.—(1) Any applicant to the Licensing Authority for the grant of any of the following licences—

- a town retail licence;
- a town-off licence;
- a village retail licence;
- a tavern licence;
- an hotel licence,

shall not less than twenty-one days before the day fixed for a session of the Licensing Authority on which the application is made deliver or cause to be delivered to the Clerk a written application for the licence desired addressed to the Licensing Authority. In the written application the applicant shall set forth—

- (a) the nature of the licence applied for;
- (b) a full description of the premises for which the same is desired and as nearly as may be the situation of the same;
- (c) whether he has ever before held a licence under this Act or Law 31 of 1905 which is now repealed and if so when and where and whether his licence was at any time forfeited;

- (d) whether the premises for which the licence is desired have, within the twelve months immediately preceding the application, been licensed under this Act;
- (e) whether he is able to read and write the English language and to keep account books in English;
- (f) whether he has at any time within five years prior to the application been convicted of any offence against this Act.

The applicant shall also declare to the truth of the several statements in the application by statutory declaration.

The applicant shall pay to the Collector, prior to the issue of the licence under section 26, the amount of the licence duty and stamp duty on the licence :

Provided that in case of any application for any town retail, village retail or tavern licence, it shall be sufficient that the applicant shall pay one moiety of the licence duty, together with the amount of the licence stamp duty, payable for the licence to the Collector and in every case where a moiety only shall be so paid the other moiety shall be paid to the Collector on or before the fifth day of October following, in default of which payment the Collector may recover the same and the costs thereof by distress and sale of the goods and chattels of the person to whom such licence was granted, or may have been transferred, wheresoever found, and on any goods and chattels found on the licensed premises, on which a landlord might distrain for rent in arrear :

Provided that if the business for which such second moiety as aforesaid shall become due shall have been discontinued previously to its becoming due and notice of such discontinuance of business shall have been given to the

Clerk and Collector; and the licence for the first moiety thereof shall have been surrendered to such Collector with an indorsement thereon, dated and signed, to the effect that such business has been discontinued, the person so licensed and acting as aforesaid and the place so licensed shall be relieved from payment of such second moiety; otherwise the power and authority provided in this Act to recover such second moiety shall remain in full force and effect:

12/1985
Sch.

Provided also that in any case in which the Commissioner of Customs is satisfied that a business was discontinued before the second moiety became due he may forego the collection of the second moiety, notwithstanding that the notices required have not been given, nor the licence surrendered.

(2) Every application for a club licence shall be made to the Licensing Authority and shall be supported by proof by the secretary of the club that the club is entered in the register of clubs under and in accordance with the provisions of the Registration of Clubs Act and that such club has not been struck off the register of clubs.

Copy of
application
to be
delivered to
Superintendent.

17.—(1) The applicant shall also, not less than twenty-one days before the day fixed for a session of the Licensing Authority on which the application is to be made, deliver a copy of his application to the Superintendent. He shall also for the said space of twenty-one days before the day so fixed cause to be conspicuously and continuously exhibited on the house or premises for which he desires a licence a placard in letters not less than twenty-five millimetres in height announcing his intention of applying on the day so fixed for a licence of the particular kind to which his application refers. Such placards shall be placed on the front of the premises and at a height of not more than three metres or less than one metre from the ground.

23/1993
S. 12.

23/1993
S. 12.

(2) The Clerk shall prepare and cause to be delivered to the publisher of the *Gazette*, not less than sixteen clear days before a session of the Licensing Authority, a notice of the holding of the session together with a list of all applications which have been made for licences indicating in each case, as clearly as may be, the nature of the licence applied for and the position of the premises for which the licence is desired. Every such list shall be published in the following issue of the *Gazette*. It shall be the duty of the Superintendent to cause a copy of the *Gazette* to be exhibited and kept exhibited outside every court house and constabulary station from the Monday following the publication of the list in the *Gazette* until the session of the Licensing Authority.

18. In every case in which an application is made for a licence, other than a wholesale licence, it shall be the duty of the Superintendent—

- (a) to inspect such premises personally, or when for reasonable causes, he is prevented from making such inspection personally, to depute an Assistant Superintendent, Inspector, or Sergeant of Constabulary to make such inspection;
- (b) to make enquiry as to the character of the applicant and also such other enquiries as may appear to him necessary; and
- (c) to endorse on the application the following particulars—
 - (i) an estimate of the annual value of the premises referred to in the application;

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- (ii) a statement whether the premises are fit for the purpose for which the licence is required within the meaning of this Act; and
- (iii) the result of his enquiries as to the character of the applicant and of such other enquiries as have appeared to him necessary.

It shall be the duty of the Superintendent to forward to the Clerk three days before the session of the Licensing Authority the endorsements required by this section with all applications received by him on or before the day appointed for the session of the Licensing Authority. The Superintendent shall also in every case attend at the session of the Licensing Authority and give such oral information on oath as may be required.

Require-
ments of
premises to
be used.

19.—(1) No premises shall be deemed to be fit for the purposes of a town or village retail shop which contains any dwelling or living room having an internal communication with the shop by door, window, jalousie, passage, or otherwise; or in which the separating partition is not close-boarded or built up to the roof and unless it complies with the following requirements—

- (a) the building must be solidly and substantially built with a substantial and weather-tight roof;
- (b) it must be floored throughout with timber, concrete, mortar, or pavement of brick, stone, tiles, or asphalt;

- (c) it must be in good repair;
- (d) it must have no internal communication with premises otherwise licensed under this Act except in the case of premises holding a wholesale licence which also hold a town-off licence.

(2) No building shall be deemed to be fit for the purpose of a tavern unless, in addition to the foregoing requirements lettered (a) to (d) in subsection (1), it has, under the same roof, at least three bedrooms properly furnished and one public room separated from the bar. 19/1960
S 2 (1).

(3) No building shall be deemed to be fit for the purpose of an hotel which does not comply with the requirements mentioned in subsection (1) lettered (a) to (d) inclusive and which has not at least eight bedrooms properly furnished and exclusively devoted to the use of guests with a minimum of eleven square metres flooring space to each bedroom, and also two public rooms separated from the bar, namely, a sitting room and a dining room, each being not less than eleven square metres in area and three metres high and properly furnished. 23/1993
S. 13.

23/1993
S. 13.

(4) No building shall be deemed to be fit to be licensed for the sale and consumption on the premises of alcoholic liquor if in the opinion of the Licensing Authority the sanitary conveniences provided therein or in connection therewith are inadequate. 19/1960
S. 2 (2).

Grounds for
refusal of
application.

20. Any application to the Licensing Authority for a licence under this Act may be refused on any one of the following grounds—

- (a) that the premises are unfit for the purpose of the licence applied for or are in the opinion of the Licensing Authority undesirable to be licensed;
- (b) that the applicant is a person of bad character;
- (c) that the applicant having within the preceding five years been a holder of a licence in any part of the Island has allowed his licensed premises to become a nuisance to his neighbourhood;
- (d) that the premises for which the application is made are so situated that they cannot be kept under effective police control;
- (e) that the premises are likely to be a nuisance to the neighbourhood;
- (f) that the applicant has neglected to comply with any of the provisions of this Act in making his application;

- (g) that there is a sufficient number of premises already licensed to meet the needs of the neighbourhood;
- (h) that the applicant has not attained the age of twenty-one years;
- (i) that the licence cannot be legally granted;
- (j) that the premises do not comply with the provisions of section 19;
- (k) that having regard to the amount of spirits received during the past year as shown in the stock book kept under the provisions of this Act it appears to the Licensing Authority that the amount of legitimate trade is not sufficient to justify the granting of a licence;
- (l) that a licence previously held by the applicant under this Act or Law 31 of 1905, which is now

repealed, in respect of premises under his own management or immediate supervision has been endorsed or forfeited under the provisions of this Act or of the said repealed Law relating to endorsement or forfeiture of licences;

11/2004
Sixth
Schedule.

- (m) that the applicant has been convicted, on more than one occasion, of an offence under section 40 of the Child Care and Protection Act.

In addition to the foregoing grounds any application may be refused by the Licensing Authority for any other reason based on the character or history of the applicant, or the condition or circumstances of the premises or on any other circumstances which the Licensing Authority may in its discretion consider sufficient in the interests of the good order and welfare of the community. An application for a licence may be refused by the Licensing Authority on any of the foregoing grounds, whether or not notice of opposition to the grant thereof has been given under this Act. If, however, in the opinion of the Licensing Authority notice should have been given, the Licensing Authority shall adjourn the hearing of the application to a convenient day for this purpose.

Opposition

Opposition to
granting or
renewal of
licence.

21. When an application for a licence has been made to the Licensing Authority it shall be lawful for the Superintendent or for any householder in the parish to oppose such application. The Superintendent or householder, as the case may be, shall give notice in writing to

the applicant of his intention to oppose setting forth in such notice the grounds on which the opposition is based. Every such notice shall be served at least ten days before the date of the session of the Licensing Authority at which the licence is to be applied for and a copy of such notice shall be served at the office of the Clerk at least seven days before the date of such session. No notice shall be deemed to be invalid in any respect, unless the applicant raises objection thereto before the Licensing Authority on the day on which the licence is applied for. If on such objection being raised the notice shall appear to the Licensing Authority to be invalid or defective by reason of any defect in form or substance or by reason of the fact that such notice has not been given or served in the manner or within the time prescribed, or for any reason whatever, it shall be lawful for the Licensing Authority to adjourn the session to any convenient day not being less than seven days from such adjournment and the Superintendent or householder giving the notice deemed to be invalid or defective, may thereupon serve on the applicant a fresh notice within a time to be ordered by the Licensing Authority who shall on the day to which the session has been so adjourned, or on such further adjournment as may be necessary, dispose of the application.

22. When notice of opposition has been duly given the party giving the same and the applicant shall be entitled to appear at the session of the Licensing Authority either personally or by counsel or solicitor and to bring forward such evidence as they may be advised. Service of any such notice as aforesaid shall be made in accordance with the provisions of any enactment relating to Resident Magistrates for the time being in force and of any rules as to service of summonses under any such enactment, issuing out of a Resident Magistrate's Court. When the notice of opposition is given by any person other than a Superintendent,

Party
opposing
and
applicant
entitled to
appear at
session.

the service of the copy on the Clerk shall be accompanied by a deposit of two dollars as security for any costs which the person giving such notice may under the provisions of this Act be ordered to pay and no such notice shall be received by the Clerk unless accompanied by such deposit.

Costs may be awarded in case of unreasonable opposition.

23. If the Licensing Authority is of opinion that a householder has opposed the grant of any licence without having any reasonable grounds for such opposition it shall be lawful for it to make an order awarding and ordering that such householder shall pay to the applicant such sum for costs (to be named in the order) as may seem just and reasonable to the Licensing Authority. Such order shall and may be enforced in the same way as an order of the like nature made under the Justices of the Peace Jurisdiction Act or under any enactment making any other provisions for enforcing such order. If no such order is made or if the costs ordered to be paid are less than the amount deposited as security as aforesaid, such deposit or the excess thereof shall on application be returned to the person who made the same.

Summoning witnesses.

24. The applicant, the Superintendent and any householder opposing any application to the Licensing Authority for a licence may obtain summonses to witnesses to attend the sessions of the Licensing Authority and give evidence on the hearing of the application and may enforce their attendance pursuant to the provisions of any enactment for the time being in force relating to the attendance of witnesses in Petty Sessions Courts or Resident Magistrates' Courts as if the applicants were the defendant and the Superintendent or person opposing the complainant.

Hearing and dealing with applications.

25. On any day appointed for a licensing session or at any adjourned hearing the Licensing Authority shall openly hear, consider and deal with all applications and all

oppositions presented under the provisions of this Act. The Licensing Authority may compel the attendance of witnesses and may examine them on oath and shall determine whether the application for the licence shall or shall not be granted and shall order accordingly and may make any order as to costs in accordance with the provisions of this Act.

26. When the Licensing Authority grants the application the Clerk shall, on application within fourteen days (or such further time as, in any case the chairman of the Authority may allow) after the date of the granting of the same by or on behalf of the applicant whose application has been granted and on presentation to him of the receipt of the Collector for the payment of the licence duty, or moiety thereof in the case of a town retail, village retail, or tavern licence, and stamp duty, issue to such person a licence in the relevant form in the Second Schedule.

Grant or
refusal of
licences.

Second
Schedule.

When the Licensing Authority rejects an application the Clerk shall, on demand in writing made at any time not less than three days after such rejection, furnish to the applicant whose application has been rejected, a certificate in writing of such rejection and the reasons for the same, and on production of such certificate to the Collector of the parish all moneys paid by the applicant in respect of such application under this Act shall be returned to him.

27.—(1) Every licence or transfer of licence granted by the Licensing Authority—

Duration of
licences.

(a) shall be granted for the time specified therein in accordance with the provisions of this Act and upon payment of the duty chargeable thereon or of a proportionate part thereon for the year for which the same is applied for; and

(b) shall in no case continue in force beyond the thirty-first day of March after it is granted.

Clerk to
keep
records.

(2) The Clerk of each parish shall keep separate books to be provided at the public expense and shall enter and record therein all licences within ten days after the licences shall have been granted by the Licensing Authority and shall within the same time cause a list of the names of all persons who shall obtain licences to be fairly transcribed in alphabetical order and posted up in the most public part of his office. He shall also within the same time transmit a copy of such alphabetical list to the publisher of the *Gazette* for publication therein.

Transfer of Licences

Transfer
of licence.

28. Applications for the transfer of a licence—

(a) to some other person; or

(b) to some other premises in the parish,
may be made at a session or special session of the Licensing Authority who may grant or refuse the same in accordance with the provisions of this Act. In either case the application shall be in writing addressed to the Licensing Authority and delivered to the Clerk not less than twenty-one days before the day fixed for a session or special session of the Licensing Authority. A copy of the intended application shall also be served by the applicant within the same time on the Superintendent.

In the case of a proposed transfer to some other person the application shall state the name, address, occupation and description of the proposed transferee and such other particulars as will show his fitness to be granted a licence. It shall be the duty of the Superintendent to make all proper enquiries as to the fitness of the proposed transferee and to report thereon to the Licensing Authority.

In case of a proposed transfer to some other premises in the parish, the same conditions as far as practicable shall be fulfilled in all respects both by the applicant, the Superintendent, the Clerk and otherwise as are provided by the foregoing sections in the case of an application for a licence for premises not already licensed.

In either case the application for the transfer may be opposed in the same way as an application for a licence.

29. If an application for a transfer is granted the Licensing Authority may make an order according to the form in the Second Schedule. The order shall be entered in a book to be kept by the Clerk for the purpose and the party applying for the order shall pay to the Clerk the sum of twenty dollars therefor, which sum shall be accounted for and paid over by the Clerk at such time and in such manner as he is required by law to pay over other moneys received by him. The Clerk shall cause the particulars of all transfers granted to be published in the *Gazette* in the same manner and within the period in which particulars of licences granted are required to be published by this Act.

Order to be made on transfer. Second Schedule.

23/1993 S. 14.

Special and Occasional Licences

30. It shall be lawful for the Minister to authorize the Commissioner of Customs, without an application to or grant by the Licensing Authority, to issue a licence to—

Licences which may be granted by Minister. 12/1985 Sch.

- (a) the General Manager of the Railway or any person nominated by him in respect of the sale of spirits at any station or on any train of the Jamaica Railway Corporation;
- (b) the Harbour Master of Kingston or any person nominated by him in respect of the supply to passengers of spirits during the actual passage

on board any passenger coasting steamer plying between ports or places in Jamaica.

In respect of any licence granted under paragraph (b) there shall be payable a licence duty of twenty dollars and a stamp duty of two dollars.

Subject to
restrictions.

Any licence issued under this section shall be subject to such restrictions as to hours and manner of sale as the Minister may in each case prescribe and shall not be deemed to authorize any sale or delivery in violation of such restrictions. Any such licence shall be deemed to be a licence for the parish of Kingston and also a licence for the parish in which such trains or passenger coasting steamers may be at any time and shall be subject to all the provisions, conditions, limitations and penalties provided for a tavern licence under this Act, so far as they are applicable, prescribed by the Minister as aforesaid.

Form.
12/1985
Sch.

A licence under this section shall be in such form as the Commissioner of Customs may prescribe.

Special
hotel
licence,
granting of
and condi-
tions
applicable.
12/1985
Sch.

31. It shall be lawful for the Minister, on the joint certificate of the Commissioner of Police and the Commissioner of Customs that any hotel in which there is a bar or other drinking accommodation open to the public and in respect of which there is in force an hotel licence under this Act is kept mainly for the *bona fide* entertainment of guests using such hotel for sleeping and taking meals therein, and that it is for the general public convenience that authority should be given, to authorize the Chairman of the Licensing Authority at his discretion to grant a special hotel licence for such hotel on payment of the duty therefor specified in the First Schedule; and such licence shall be deemed to authorize the retailing of alcoholic liquors for consumption on the licensed premises without distinction of the persons to whom or the part of the premises in which liquors shall be supplied :

First
Schedule.

Provided always that no liquor shall be sold under such special licence to persons not guests at such hotel at any time during which the keeping open of licensed premises for the sale of alcoholic liquor to the public generally is forbidden by this or any other enactment :

Provided also that on the occasion of any dance, ball or other entertainment being held after closing hours in an hotel so specially licensed it shall be lawful for the **Resident Magistrate of the parish on application, without any fee,** to authorize in writing the licensed occupier of such hotel to supply alcoholic liquors to the persons attending such dance, ball, or entertainment during such hours as may be specified in such authority and thereupon such occupier may lawfully supply the same accordingly.

A licence under this section shall be in such form as the chairman of the Licensing Authority may prescribe.

32.—(1) A licensed retailer of spirits may apply to the chairman of the Licensing Authority for a special licence on the occasion of any public entertainment, festivity, or meeting, to carry on his trade at the place of such entertainment, festivity, or meeting within the district in which his licensed premises are situated and the chairman, by certificate under his hand, may at his discretion grant such special licence for the hours and to the extent that may be deemed necessary for the public convenience; provided that—

Licences
for public
entertain-
ments,
etc.

- (i) sufficient notice of such application shall have been given to the Superintendent who may oppose the same;
- (ii) no such licence shall be granted in any case to extend beyond the occasion in respect of which the same is granted;
- (iii) such licence shall not, unless specially permitted therein, be deemed to permit any sale of alcoholic

liquors except between the hours during which the same may be by law allowed to be sold on the premises of the applicant; and

- (iv) on the issue of every such certificate there shall be paid the fee set out in the First Schedule.

First
Schedule.

A licence under this section shall be in such form as the chairman of the Licensing Authority may prescribe.

(2) Notwithstanding anything contained in this Act, where the chairman of the Licensing Authority grants a special licence under subsection (1) and at the time of such grant he is satisfied that the whole of the proceeds in respect of the public entertainment, festivity or meeting in respect of which such special licence is granted will be devoted to charity, he may also order that the fee payable for such licence shall be one-third of the fee payable under subsection (1) and that no stamp duty shall be payable in respect of any such special licence.

23/1993
S. 16.

Power of
Licensing
Authority to
permit sale
of spirits, by
holder of
town retail
or tavern
licence at
race-
meetings,
etc.

33. On the occasion of any public horse-race, or other lawful or accustomed amusement or exhibition being held in any parish, it shall be lawful for the chairman of the Licensing Authority on application in writing of any person holding a town retail or a tavern licence in respect of any premises within the parish, which application must be submitted through the Superintendent not less than three days before such race, amusement, or exhibition, to grant such person authority in writing to sell spirits according to the tenor of his licence, in a booth, tent, or other temporary structure at the place where, and for the day or days during which, such race or other amusement or exhibition as aforesaid may be held, as if the same formed part of his licensed premises, notwithstanding that the holder of the licence may be one of the persons compelled by any enactment relating to public holidays to close his place of business on the day on which such race or other

amusement or exhibition is held; provided that the person authorized as aforesaid shall keep exhibited in some conspicuous place over or on the outside of such booth, tent, or structure, his name and the number of his licence. Any licensee aforesaid, who shall have obtained such authority as aforesaid, who shall fail to comply with the terms of the provision hereinbefore contained, and shall nevertheless sell spirits in any such place or on any such occasion as aforesaid, shall, in respect of any such failure be guilty of an offence and shall be liable on summary conviction to a penalty not exceeding five hundred dollars.

23/1993
S. 17.

A licence under this section shall be in such form as the chairman of the Licensing Authority may prescribe.

Hours of Opening and Closing Licensed Premises

34. The Minister may, by order published in the *Gazette*, prescribe—

Power of
Minister to
prescribe
hours and
days for
opening of
licensed
premises.
10/2012
S. 2.

- (a) the hours for keeping open premises licensed under this Act;
- (b) subject to section 35, the extended hours in respect of which the Superintendent may grant a special licence for keeping open premises, licensed under this Act; and
- (c) the days on which premises licensed under this Act, are permitted to be open for the activities authorized under the licence.

35. It shall be lawful for the Superintendent, on an application being made to him in writing, to grant any licensed retailer or tavern keeper within the parish a special licence to keep his premises open until the hour prescribed by the Minister pursuant to section 34(b), being an hour not later than two o'clock in the morning on any special occasion and for any special reason; but such licence shall only apply for

Special
licence to
keep open
until mid-
night.
10/2012
S. 3(a)(b).

the day for which it is granted and the proof of any such special licence in any proceedings taken for an offence against this Act shall be on the defendant.

Penalty for opening after hours of retail house, tavern or hotel.

23/1993
S. 18.

36. Subject to the provisions of section 35, every licensee and person in charge of a retail house, tavern or hotel which shall be open or where any spirits shall be sold except within the hour fixed as aforesaid, shall be guilty of an offence against this Act and on summary conviction shall be liable to a penalty not exceeding five hundred dollars; provided however, that nothing herein shall be deemed to prevent any tavern or hotel keeper from admitting and supplying refreshment to any *bona fide* traveller or lodger or any person who has entered the hotel or tavern before the hour for closing, and has been dining or taking supper therein:

Provided that the burden of proof that any person found in an hotel or tavern after prohibited hours is a person exempted as aforesaid, shall in all cases be on the hotel or tavern keeper.

Obligations of Licensees

Sign board to be affixed to premises.

23/1993
S. 19(a).

37.—(1) Every person holding a licence granted by the Licensing Authority shall cause a board to be affixed on the front of his licensed premises over the door toward the public street, lane, or road, wherever the same shall be situated; with his name, or when the trade is carried on by a company or firm, the name or style of the company or firm and after the name the word “licensed” adding thereto the words necessary to express the trade for which the licence has been granted. The particulars required by this section shall be printed in white letters fifty millimeters in size on a black ground and shall also state the number of the licence.

(2) If any person does not paint or place and fix such letters as aforesaid, or does not keep the same so painted or placed and fixed he shall be guilty of an offence and shall be liable on summary conviction to a penalty not exceeding two hundred dollars for each and every day during which such neglect continues.

23/1993
S. 19 (b).

(3) If any person shall put up or have any such letters as aforesaid upon his premises falsely importing that he is licensed to carry on any trade other than he is in truth so licensed to carry on he shall be guilty of an offence and shall be liable on summary conviction to a penalty not exceeding two thousand dollars.

23/1993
S. 19 (c).

38. Every retailer of spirits shall keep a book in which he shall record in English the following particulars of every lot of spirits received into his licensed premises—

Retailer to
keep stock
book.

the date of receipt;

the name of the person from whom received;

the quantity and description of spirits;

every house, building, room, and every fixed cask, vessel or utensil intended to be used by him for the keeping or storing of or dealing in or retailing such spirits.

He shall produce such stock book together with any bill of parcels, permit, or other document which accompanied the spirits for the inspection of any Collector, or Superintendent, or of any Officer of Revenue or Police specially deputed for the purpose.

Every retailer failing to keep or to produce when called upon to do so by any of the officers aforesaid, the stock book, or bills of parcels, permits or other documents required by this section, shall be guilty of an offence and shall be liable on summary conviction to a penalty not exceeding three hundred dollars for each default.

23/1993
S. 20.

Penalty for non-production or obliteration of licence.

39. Every person holding any licence under this Act shall be bound to produce his licence in any court of Justice or to any Superintendent or Assistant Superintendent of Police, if he be required to do so. Any such person who fails to produce his licence when so required or who defaces or obliterates, or attempts to deface or obliterate any record of a conviction on his licence, shall be guilty of an offence and on being convicted of so doing or of the attempt shall be liable to forfeit such licence and shall also be liable to a penalty not exceeding three hundred dollars.

23/1993
S. 21.

General Provisions

Minister may refund or remit duty.
23/1988
S.2.

39A.—(1) The Minister, on an application made by the person who has paid or is liable for the payment of licence duty under this Act, may, if he thinks fit, refund or remit in whole or in part such licence duty.

(2) A notice of any refund given or remission granted pursuant to subsection (1) shall be published in the *Gazette*.

Refund of amounts overpaid.
12/1985
Sch.

40. The Commissioner of Customs or the Commissioner of Inland Revenue, as may be appropriate, may refund any amount of licence duty which may appear to him to have been overpaid under this Act.

Evidence required to prove sale or consumption of liquor.

41. In proving the sale or consumption of alcoholic liquors it shall not be necessary to show that any money actually passed, or that any alcoholic liquor was actually consumed, if the court hearing the case be satisfied that a transaction in the nature of a sale actually took place, or that any consumption of alcoholic liquor was about to take place, and proof of consumption or intended consumption of alcoholic liquors on licensed premises by some person other than the occupier or a member of his family, or a servant in such premises, shall be evidence that such liquor was sold to the person consuming or carrying away or being about to consume or carry away the same.

42. It shall be lawful for any person to seize and detain, and to call upon any constable to seize and detain any spirits which shall be sold or exposed for sale in any manner or place prohibited by this Act; and it shall be the duty of every constable, either when so called on, or on view, to apprehend and detain any person selling or exposing for sale in any manner or place prohibited by this Act, any spirits whatsoever, and also to seize and detain any spirits so sold or exposed for sale, and to receive and keep the spirits which may have been seized by any other person as aforesaid, and in either of the cases herein mentioned, to carry the spirits seized and detained, and also the person apprehended, before the Resident Magistrate of the parish wherein such person shall be apprehended, who shall proceed to the examination of the matter, and upon due proof that the spirits are liable to forfeiture under this Act, may award the penalty by this Act imposed upon the party so offending, and may condemn the said spirits, which shall be thereafter sold by the Collector.

Seizure and detention of spirits illegally sold or exposed for sale.

43. Every building or place used as a tavern and every building or place in which spirits are retailed under a town retail licence shall be held as one place of business and if any such building or place is divided or partitioned off into separate places of business a licence shall be required for each separate building or place.

Licensed premises shall be held as one.

44. When a Volunteer canteen is authorized by the Chief of Staff, Jamaica Defence Force and is managed by a committee who have no interest in the profits, a licence is not necessary for the sale therein of alcoholic liquors to any person entitled to purchase articles at such canteen.

Volunteer canteen, no licence required. 42/1969 3rd Sch.

45. Every conviction of a person holding a licence under this Act, or being a keeper or manager of premises licensed under this Act, of any of the following offences committed on the premises for which such person may hold the licence or be the keeper or manager—

Endorsation of convictions, and forfeiture of licences.

11/2004
Sixth
Schedule.

abusive, or indecent, or obscene, or profane language, assault, or disorderly conduct, or any offence under section 40 of the Child Care and Protection Act or of any offence under this Act,

shall be endorsed on the licence which shall be produced for that purpose in court; and on a second such endorsement the licence shall be ordered to be forfeited. After the forfeiture of any licence under this Act the house or premises for which it was granted shall be and be deemed to be in all respects an unlicensed house.

Superinten-
dent to be
satisfied as to
accom-
modation.

46. The Superintendent shall satisfy himself from time to time in the case of a tavern or hotel, that the bedrooms, public rooms and other accommodation required under the provisions of this Act are kept and are available for the purposes therein stated, and in the case of a town retail shop that there is no dwelling or living room having any internal communication with the shop by door, window, jalousie, passage, or otherwise, and that any separating partition is kept close-boarded and built up to the roof. And that otherwise no improper or unauthorized alteration has been made in the licensed premises since the date when the licence has been granted or transferred.

Any person holding a licence to retail spirits, or keeping a tavern or hotel under this Act, who shall be convicted of an indictable offence, shall, on proof of the fact before two Justices, forfeit his licence. Any person licensed to keep a tavern or hotel who shall be found not to have the number of rooms or other accommodation provided for by this Act and any holder of a licence to retail spirits whose licensed premises shall have any internal communication with any dwelling or living room, or the separating partitions of which, since the date when his licence has been granted or renewed, have been altered in any improper or unauthorized manner, shall on proof thereof before two Justices be liable to forfeit his licence, and to a penalty not exceeding one thousand dollars.

23/1993
S. 23.

47.—(1) Whenever it shall appear to the satisfaction of the Minister that any substance, liquor, or ingredient is used, or is capable of use in the preparation of, or is mixed with alcoholic liquor, and that such substance, liquor, or ingredient is of a noxious or detrimental nature, or that the use thereof will lead to the Consolidated Fund being prejudiced or is in fraud of a purchaser or is prejudicial to the health of the people, it shall be lawful for the Minister by order to be published in the *Gazette* to prohibit the use by any person of any such substance, liquor, or ingredient, either entirely or in any greater quantity or proportion than in such order shall be prescribed in the preparation of or mixture with any alcoholic liquor for sale, and by like order to withdraw or modify such prohibition at any time.

Noxious or detrimental substance.

(2) If after the publication of any such notice of prohibition in the *Gazette* any person shall use or have on his premises any such prohibited substance, liquor or ingredient, whether mixed with alcoholic liquor or not, or as the case may be, shall have such substance, liquor, or ingredient mixed with liquor for sale in more than the prescribed quantity or proportion he shall be guilty of an offence and shall be liable on summary conviction to a penalty not exceeding two thousand dollars; and any such substance, liquor or ingredient, and also the alcoholic liquor in the preparation whereof any such substance, liquor, or ingredient may have been mixed or used, shall be forfeited.

23/1993
S. 24.

(3) The provisions of this section shall apply to any licensed person and also to any distiller or compounder.

(4) For the purposes of this section the Superintendent or any constable shall have the same powers of obtaining samples and of having analysis made as are conferred by any enactment for the time being in force dealing with the adulteration of food and drugs.

Certificate
of
Government
Analyst
sufficient
evidence.

48. At the hearing of any information or complaint of an offence against this Act the production of a certificate signed by the Government Analyst or Government Chemist shall be sufficient evidence of all the facts therein stated unless the defendant require that the Government Analyst or Government Chemist be summoned as a witness, in which case the Magistrate shall cause him to be summoned to appear on a day and at a time to be specified.

Costs
payable in
addition to
penalty.

49. If a person charged with an offence be convicted, he shall, in addition to the penalty imposed upon him, be ordered to pay the following sums, that is to say—

23/1993
S. 25.

- (a) the sum of one hundred dollars for every day or part of a day on or during which the Analyst or Chemist in obedience to such summons shall have attended in court;
- (b) the travelling expenses of the Analyst or Chemist;
- (c) all other expenses whatsoever incurred in procuring, delivering and analysing any alcoholic liquor under this Act;
- (d) all other legal expenses of the prosecution.

The sums so payable shall be deemed costs of conviction recoverable in manner provided in and by any enactment for the time being in force regulating recovery of costs in summary proceedings in a Resident Magistrate's Court.

Vested right
not created
by grant of
licence.

50. No licence granted under this Act shall create or be deemed to create any vested interest or right or confer any right to a renewal of the licence.

Exemptions.

51. Nothing in this Act contained shall be construed to make illegal—

- (a) any sale or delivery of or dealing in any alcoholic liquors on his licensed premises by a licensed distiller or compounder in the manner authorized by any enactment regulating the trade of such person;
- (b) any dispensing by a licensed druggist of spirits in the preparation of medicine prescribed by a registered medical practitioner, or any sale or delivery by a licensed druggist of a *bona fide* medicine containing spirits of wine, or of any *bona fide* medicinal preparation of wine, beer, or malt extract;
- (c) any sale or delivery of or dealing in Bay Rum or similar liquids used for toilet or medicinal purposes.

52. Every house or place licensed under this Act shall be under the supervision of the police and it shall be lawful for any Superintendent, Assistant Superintendent, Inspector, Sergeant or Corporal of Police either alone or with such other constables or persons as he may call to his assistance, to enter at any time, either by day or night, upon any such house or place within his district for the purpose of inspection, or for the better preservation of order and decency, or of preventing or detecting the violation of any of the provisions of this Act.

Supervision
and entry by
police of
licensed
premises.

Every licensed person who by himself or by any person in his employment or acting by his direction or with his consent, refuses, or on being called upon fails to admit such Superintendent, Assistant Superintendent, Inspector, Sergeant, or Corporal of Police, either alone, or with such other constables or persons as he may call to his assistance, shall be guilty of an offence and shall be liable on summary conviction to a penalty not exceeding five hundred dollars; and every person who shall obstruct any such officer or per-

23/1993
S. 26.

son in making any such entry, or who shall aid in making any such obstruction shall be guilty of an offence and shall be liable on summary conviction to such penalty or punishment as is by law imposed on persons obstructing the police in the execution of their duty.

Penalty for reducing spirits with anything but pure water.

53. Every person holding a licence granted by the Licensing Authority who shall sell any spirits reduced by anything but pure water shall be guilty of an offence and shall on summary conviction be liable to a penalty not exceeding three hundred dollars.

23/1993
S. 27.

Penalty for selling rum of insufficient strength.

54.—(1) All spirits found in any licensed retail shop or tavern, or in the bar of any hotel, or of any railway station, or of any passenger coasting steamer, shall be deemed to be part of the stock and to be exposed for sale and if any person holding a retail, tavern, or hotel licence or special licence, in respect of a railway station or train or of a passenger coasting steamer, shall sell or expose for sale in any licensed retail shop, or tavern, or hotel, or railway station, or train, or passenger coasting steamer, any rum at a lower proof than forty *per centum* alcohol by volume, when measured by the standard method set out by the International Organization of Legal Metrology, he shall be guilty of an offence and on summary conviction he shall be liable to a penalty not exceeding one thousand dollars for each offence and the evidence of any Revenue or Excise officer who has tested any rum by such bubble shall be presumptive as to its strength, unless it is proved affirmatively by or on behalf of the person charged that such test is incorrect. The person holding any of the above licences and the person who is the actual keeper or manager of the licensed premises shall each be equally guilty of an offence and on summary conviction shall each be equally liable to the above penalty.

65/1954
S. 2 (a) (b).
23/1993
S. 28 (a).

23/1993
S. 28 (b).

(2) All spirits in respect of the sale or exposure for sale of which any person is convicted under subsection (1) shall be forfeited to the Crown, and shall be disposed of in such manner as may be directed by the Minister either generally or in any particular case.

55. Any person holding any licence under this Act, and any person who is the manager or actual keeper of licensed premises who shall—

Offences by
licensed
persons.

- (a) permit drunkenness or other disorderly conduct in his licensed house or premises; provided, that when the persons aforesaid are charged with permitting drunkenness on the licensed premises, and it is proved that any person was drunk on such premises, it shall lie on such persons to prove that all reasonable steps were taken for preventing drunkenness on the premises; or
- (b) suffer any unlawful games, or any gaming whatsoever therein; or
- (c) permit or suffer persons of notoriously bad character to assemble and meet together therein; or
- (d) supply spirits to a person already intoxicated; or
- (e) permit or suffer, or fail to use his best endeavours to prevent and put an end to any disorderly or improper conduct in his licensed house; or
- (f) permit any person or persons, other than those employed on the premises or having lawful business there to enter or, to remain on the licensed premises after the hour for closing the same, the proof that such person or persons were so employed, or had lawful business to lie on the party accused,

shall on summary conviction, for a first offence, be liable to a penalty not exceeding two hundred dollars, and for any

23/1993
S. 29.

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S. 29.

second or subsequent offence, to a penalty not exceeding five hundred dollars and be liable also to forfeit his licence.

No offence under this section shall be deemed a second or subsequent offence, otherwise than in connection with a previous offence or offences committed within five years.

The person in whose name the licence is held, and the person who is the actual keeper or manager of the licensed premises, shall each be equally liable to the penalties set forth in this section of this Act, and for any breach of this section of this Act, committed by any servant or servants employed upon the premises.

Penalty for
keeping a
disorderly
house.

56.—(1) No person holding any licence under this Act shall knowingly permit his premises to be a habitual resort or place of meeting of reputed prostitutes, whether the object of their so resorting or meeting is or is not prostitution, but nothing in this section shall prevent him from allowing any such persons to remain on his premises for the purpose of obtaining reasonable refreshment for such time as is necessary for the purpose.

23/1993
S. 30.

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S. 30.

(2) If the holder of any licence acts in contravention of this section he shall be liable on summary conviction before a Resident Magistrate in respect of such offence to a fine not exceeding, in the case of the first offence, three hundred dollars, and in the case of any subsequent offence, five hundred dollars.

Penalty for
permitting
premises to
be a
brothel.
23/1993
S. 31.

57.—(1) Any person holding a licence under this Act who shall permit his premises to be a brothel shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding ten thousand dollars.

(2) Any person holding a licence under this Act who shall be convicted, whether under this section or otherwise, of the offence of permitting his premises to be

a brothel shall, on proof of the fact before two Justices, forfeit his licence.

58. Every person who shall be guilty of—

- (a) drunkenness, or other disorderly or improper conduct in any part of a licensed house; or
- (b) engaging in any unlawful games or gaming in a part of any licensed house; or
- (c) being found on any licensed premises after the hour for closing the same, unless such person be employed on the premises or have lawful business there, the proof of such employment or such lawful business to lie on the party accused,

shall for every offence be liable on summary conviction to a penalty not exceeding three hundred dollars, or be imprisoned in any prison with or without hard labour for a period not exceeding thirty days.

Offences in
licensed
premises.

23/1993
S. 32.

59.—(1) Any constable may demand the name and address of any person found on any licensed premises during the period during which they are required to be closed, and, if he has reasonable ground to suppose that the name or address given is false, may require evidence of the correctness of such name and address, and may, if such person fail upon such demand to give his name or address, or evidence of the correctness of the name or address so given, apprehend him without warrant, and carry him as soon as practicable before a Magistrate.

Constable
may require
name and
address of
person
found on
premises.

(2) Any person required by a constable under this section to give his name and address, who fails to give the same; or gives a false name or address, or gives false evidence with respect to such name and address, shall be guilty of an offence and on summary conviction be liable to a penalty not exceeding two hundred dollars.

23/1993
S. 33 (a).

Penalty for false representation, or buying after hours.

23/1993
S. 33 (b).

(3) Every person who by falsely representing himself to be a traveller or lodger, buys or obtains, or attempts to buy or obtain at any licensed premises any alcoholic liquor during the period which such premises are or should be closed, shall be guilty of an offence and on summary conviction be liable to a penalty not exceeding two hundred dollars.

Revenue officer's power to enter premises and make search.

23/1993
S. 34.

60.—(1) Any Revenue officer or Excise officer may at any time enter into any house, premises, building, room, or other place, entered, licensed, or used for the keeping or storing of or selling alcoholic liquors, and examine any alcoholic liquor found therein, and may search for and take samples of any such alcoholic liquors, paying for any sample the usual price, and may inspect all books, invoices, permits and certificates relating to the trade, and may also search for and seize any alcoholic liquor for the sale of which a licence is not held; and if any person in the occupation of any house, premises, building, room, or other place, or person by his direction, refuses or fails to admit any Revenue officer or Excise officer into or upon such house, premises, building, room or other place, or wilfully impedes, resists, or obstructs such officer in such inspection, he shall be guilty of an offence and on summary conviction be liable to a penalty not exceeding one thousand dollars.

(2) Any constable shall, in respect of any premises licensed under this Act, have the same powers of entry, inspection, search, and taking samples as a Revenue officer or an Excise officer.

Search warrant.

61.—(1) If upon information given on oath it appears to any Justice that there is reasonable cause for suspecting that any alcoholic liquor is kept for the purpose of sale by retail by any person not duly licensed in that behalf or by any licensed person in any premises not specified in his

licence, such Justice may, by warrant under his hand directed to any Revenue officer or Excise officer, or any constable, authorize such officer, or constable to enter and search such premises, and, by the said warrant, may, if he thinks fit, specially authorize such officer or constable to enter and search such premises at any time of the day or night, and moreover, if he thinks fit, may specially authorize such officer, or constable, with or without assistants, after having made known his authority, to break open or otherwise use force in order to effect an entry to such premises.

(2) If, upon search under this section, any such alcoholic liquor or any vessel used for holding or measuring the same is found, it shall be lawful for the Revenue officer or Excise officer, or the constable executing the warrant to take possession of and secure such liquor or vessel; and they may apprehend and bring before a Magistrate not only the person in whose premises the same are found, but also every other person found in such premises, who appears to have been employed or assisting in the retailing of alcoholic liquor, and unless it be made to appear to such Magistrate that such alcoholic liquor was not deposited for the purpose of being sold by retail in such premises, the person in whose premises such alcoholic liquor is found, and every person so appearing to have been employed or assisting in the retailing thereof in such premises, shall be guilty of an offence and on summary conviction be liable to a penalty not exceeding two thousand dollars

23/1993
S. 35.

(3) All alcoholic liquor found on any search under this section, together with all vessels used for holding or measuring the same, or in any way in and about the retailing thereof, shall, upon any conviction in respect thereof be forfeited to Her Majesty.

(4) Every warrant under this section shall remain in force for one month from the day of the date thereof, and if shall be no defence to any charge under subsection (1) that the liquor

found on the premises was deposited or brought thereon after the issue of the warrant.

Offences.

62. Every holder of a licence under this Act who—

- (a) knowingly employs any person under the age of eighteen years to sell or assist in the selling of spirits in any licensed premises; or
- (b) serves or permits to be served or sold to any person under the age of eighteen years any alcoholic liquor; or
- (c) serves or permits to be served with alcoholic liquor, whether on payment therefor or not, any police constable while on duty or any person in charge of any public vehicle while on duty,

11/2004
Sixth
Schedule.

shall be guilty of an offence and on summary conviction shall be liable to a penalty not exceeding one hundred thousand dollars or imprisonment for a term not exceeding three months, or both such fine and imprisonment.

11/2004
Sixth
Schedule.

Any employee or assistant of a licence holder who does any of the acts mentioned in paragraphs (b) and (c), shall also be guilty of an offence and on summary conviction be liable to a penalty not exceeding one hundred thousand dollars or imprisonment for a term not exceeding three months, or both such fine and imprisonment.

11/2004
Sixth
Schedule.

Power to
refuse to admit
and turn out
person drunk,
etc.

63.—(1) Any licensed person may refuse to admit to and may turn out of the premises in respect of which his licence is granted, any person who is drunken, violent, quarrelsome, or disorderly, or whom he finds gambling on the premises, and any other person whose presence on his premises would subject him to a penalty.

(2) Any such person who, upon being requested in pursuance of this section by such licensed person, or his servant or a member of his family, or any constable to quit such premises, refuses or fails so to do, shall be

guilty of an offence and on summary conviction be liable to a penalty not exceeding five hundred dollars, and all constables are required, on the demand of such licensed person, agent, or servant, to expel or assist in expelling every such person from such premises, and may use such force as may be required for that purpose.

23/1993
S. 37.

64.—(1) When any riot or tumult happens, or is expected to happen, a Resident Magistrate, or any Justice or the Commissioner of Police or any Superintendent or Assistant Superintendent of the Jamaica Constabulary Force may order every holder of a retail or tavern licence under this Act in or near the place where the riot or tumult happens, or is expected to happen, to close his premises during any time which the Resident Magistrate, Commissioner of Police, Justice, Superintendent or Assistant Superintendent may order.

Closing of
premises
consequent
on riot.

Any order under this section shall be sufficiently made if given to the person in charge of the licensed premises:

Provided that it shall be lawful for the Minister to alter the time during which any closing order shall operate as aforesaid.

(2) Any person who disobeys any order made as aforesaid shall be liable on summary conviction before a Resident Magistrate in respect of each offence to a penalty not exceeding two thousand dollars and in default of payment to imprisonment with or without hard labour for a period not exceeding six months; and any person acting by order of the Commissioner of Police or any such Superintendent or Assistant Superintendent or Resident Magistrate or Justice may use such force as may be necessary for the purpose of closing the premises.

23/1993
S. 38.

65. In any proceeding under this Act, a conviction may be proved by the production of a certificate stating the

Proof of
conviction

substance and effect of such conviction, and omitting the formal parts thereof purporting to be signed by the Clerk of the Courts or other officer having the custody of the records of the convicting Court, and by proof of the identity of the person named in such certificate; and no proof need be given of the signature or official character of the person appearing to have signed such certificate.

Neglect of
Clerk,
penalty for.
23/1993
S. 39.

66. For every neglect, omission or delay on the part of any clerk to perform any duty by this Act imposed on him, he shall forfeit a sum not exceeding two hundred dollars, and an additional sum, not exceeding fifty dollars, for each day's subsequent delay after the first day's default in performing such duty.

Penalties
not other-
wise pro-
vided for.

67. If any person shall be guilty of an offence against this Act, or of a breach of any of its provisions or of any of its regulations made under it for which no penalty or punishment is specially attached, he shall be liable on summary conviction to a penalty not exceeding three hundred dollars.

23/1993
S. 40.

Recovery of
penalty for
selling with-
out licence.

68. In the recovery of any penalty under this Act for selling or supplying on sale alcoholic liquors without a licence or in a manner unauthorized by a licence, it shall be sufficient to allege that the defendant sold spirits, without having in force a licence authorizing him so to do; and it shall not be necessary further or otherwise to describe the offence.

Recovery of
penalties.

69. All penalties hereby imposed shall be recovered and enforced in a summary manner before the Resident Magistrate of the parish where the offence is committed, who, if such penalty be not forthwith paid, may award imprisonment with or without hard labour for any term not exceeding six months.

70. A summons against any person for contravention of any of the provisions of this Act may be served on him in the same manner as summonses are served in a Resident Magistrate's Court and also where the summons is against a person holding a licence under this Act, by delivery of a copy of the summons to the person in charge of the licensed premises to which the alleged contravention relates.

Service of
summons.

Appeal

71.—(1) Any person aggrieved by any decision of the Licensing Authority may appeal on a question of law from such decision to a Resident Magistrate's Court.

Appeal.

23/1993
S. 41 (a).

(2) Notice in writing shall be given by the appellant of his intention to appeal, and of the grounds of appeal to the Clerk and the person who has been granted or who has opposed the granting of the licence or the transfer of a licence, as the case may be, within fourteen days next after the decision has been given; and the appellant must also within those fourteen days enter into recognizance in the sum of two hundred dollars with two sufficient sureties before the Clerk, conditioned to appear at the Resident Magistrate's Court and prosecute his appeal, and abide the judgment of the Court thereupon, and to pay such costs not exceeding two hundred dollars as may be awarded by the Court. Instead of entering into such recognizance the appellant may lodge the sum of two hundred dollars with the Clerk within the aforesaid period of fourteen days and this sum shall be subject to the same conditions as in the case of the recognizance.

23/1993
S. 41 (b) (i).

23/1993
S. 41 (b) (ii).

23/1993
S. 41 (b) (i).

(3) The evidence to be used in the appeal shall be the notes taken by the Clerk, and the Resident Magistrate's Court shall have complete and absolute authority in and over the matter of the appeal, and may make such order therein with or without costs, and may fix the amount of the costs, as the said Court may think fit, or may remit the matter to the Licensing

23/1993
S. 41 (c).

Authority with instructions and directions for rehearing and such rehearing shall be treated as if it were the original hearing and as if the Licensing Meeting at which it had first been heard had been adjourned for that purpose, and may grant the licence or transfer of the licence in the same manner as the Licensing Authority, and the Clerk shall thereupon proceed as if the licence or transfer of the licence had been granted by the Licensing Authority.

23/1993
S. 41 (d).

(4) Any person aggrieved by the decision of the Resident Magistrate's Court may appeal on a question of law to the Court of Appeal and the decision of the Court shall be final.

23/1993
S. 41 (e) (i).

(5) Where any appeal is abandoned or withdrawn or not proceeded with the Resident Magistrate's Court or the Court of Appeal may order the appellant to pay such costs as they think proper to the respondent or person who has been put to expense in consequence of his having served notice of his intention to appeal, and such order and any other order for costs may, in addition to any other mode, be enforced in the same way and by the same process as any judgment or order of the Resident Magistrate's Court or the Supreme Court be enforced.

23/1993
S. 41 (e) (ii).

(6) The only proper respondent to an appeal from the grant of a licence or transfer of a licence shall be the Superintendent or any householder who has given notice of opposition under section 21.

23/1993
S. 41 (f).

(7) The Superintendent shall be under no personal liability for costs awarded by the Court on an appeal but such costs shall be paid out of the Consolidated Fund by direction of the Minister on the certificate of the Clerk or, as the case may be, the Registrar of the Supreme Court certifying the amount thereof.

(8) For the purposes of this section “any person aggrieved” means the applicant or any person who is entitled under the provisions of this Act to object to such licence or transfer and who shall have appeared before the Licensing Authority and have objected to such licence or transfer.

72. The powers of supervision, search, entry and taking of samples conferred upon Revenue officers, Excise officers and officers and members of the Constabulary Force under the provisions of this Act are hereby conferred upon and extended to all such persons in relation to all premises on which beer and wine are sold under a licence taken out under the Licences on Trades and Business Act. Power of search, etc.

FIRST SCHEDULE

(Section 10)

1. For each wholesale licence—
 - (a) in the Urban and Suburban Wards of the Corporate Area established under the Kingston and St. Andrew Corporation Act, in the city of Montego Bay, or in the towns of Mandeville, May Pen, Ocho Rios or Negril \$7,500
 - (b) in any other part of the Island not mentioned in sub-paragraph (a) \$4,000
2. For each town retail licence—
 - (a) in the Urban and Suburban Wards of the Corporate Area established under the Kingston and St. Andrew Corporation Act, in the city of Montego Bay, or in the towns of Mandeville, May Pen, Ocho Rios or Negril \$1,600
 - (b) in the towns of Port Royal, Spanish Town, Linstead, Old Harbour, Chapelton, Black River, Balaclava, Christiana, Spaldings, Savanna-la-Mar, Lucea, Falmouth, Duncans, St. Ann's Bay, Brown's Town, Port Maria, Annotto Bay, Oracabessa, Richmond, Highgate, Port Antonio, Buff Bay, Hope Bay, Morant Bay or Bath \$1,000
3. For each village retail licence in any part of the Island not mentioned in paragraph 2 of this Schedule \$ 300
4. For each town-off licence—
 - (a) in the Urban and Suburban Wards of the Corporate Area established under the Kingston and St. Andrew Corporation Act, in the city of Montego Bay, or in the towns of Mandeville, May Pen, Ocho Rios or Negril \$2,000
 - (b) in the towns of Port Royal, Spanish Town, Linstead, Old Harbour, Chapelton, Black River, Santa Cruz, Balaclava, Christiana, Spaldings, Savanna-la-Mar, Lucea, Falmouth, Duncans, St. Ann's Bay, Brown's Town, Port Maria, Annotto Bay, Oracabessa, Richmond, Highgate, Port Antonio, Buff Bay, Hope Bay, Morant Bay or Bath \$1,000
5. For each tavern licence—
 - (a) in the Urban and Suburban Wards of the Corporate Area established under the Kingston and St. Andrew Corporation Act, in the city of Montego Bay, or in the towns of Mandeville, May Pen,

Ocho Rios or Negril	...	...	...	\$2,000
(b) in the towns of Spanish Town, Linstead, Old Harbour, Black River, Santa Cruz, Balaclava, Christiana, Spaldings, Falmouth, Savanna-la-Mar, Lucea, Duncans, St. Ann's Bay, Brown's Town, Port Maria, Annotto Bay, Oracabessa, Richmond, Highgate, Port Antonio, Buff Bay, Hope Bay or Morant Bay	...	...	...	\$1,200
(c) in any other part of the Island	...	...	...	\$ 600
6. For each hotel licence—				
(a) in the Urban and Suburban Wards of the Corporate Area established under the Kingston and St. Andrew Corporation Act, in the city of Montego Bay, or in the towns of Mandeville, Negril, Ocho Rios or Port Antonio	...	...	...	\$3,000
(b) in any other part of the Island	...	...	...	\$1,500
7. For each special hotel licence—				
(a) in the Urban and Suburban Wards of the Corporate Area established under the Kingston and St. Andrew Corporation Act, in the city of Montego Bay, or in the towns of Mandeville, Negril, Ocho Rios or Port Antonio	...	...	...	\$5,000
(b) in any other part of the Island	...	...	...	\$2,500
8. For each club licence—				
(a) in the Urban and Suburban Wards of the Corporate Area established under the Kingston and St. Andrew Corporation Act	...	...	...	\$3,000
(b) in any other part of the Island	...	...	...	\$1,600
9. For each special licence or authority granted under sections 32 and 33, for every twenty-four hours or part of twenty-four hours				
	...	...	...	\$ 300
10. For every special licence granted under section 35				
				\$ 100.

SECOND SCHEDULE

(Section 5)

(FORM OF A LICENCE TO SELL SPIRITS BY WHOLESALE)

No.

Jamaica SS.

A. B. of the parish of _____ having paid to the Collector of Taxes the amount of duty for a Licence to sell Spirits by Wholesale, and the stamp duty thereon, and having applied to me for such

SPIRIT LICENCE

Licence in accordance with the provisions of section 11 of the Spirit Licence Act: These are to license the said to sell Spirits Wholesale, or in quantities not less than are mentioned in the said Act, in the said parish from the _____ day of 19 _____ to the 31st day of March, 19 _____.

Dated this _____ day of _____ 19 _____.

*Clerk of the Courts for the
parish of*

(Section 5) (FORM OF A TOWN OR VILLAGE RETAIL LICENCE)

No.
Jamaica SS

At a Licensing Session held under the provisions of the Spirit Licence Act, in and for the parish of _____ on the _____ day of _____ 19 _____, for that purpose, _____ of _____ having been approved as a _____ Retailer of Spirits to be consumed in or conveyed from a certain house at present occupied by him situated at _____ in the parish of _____ and having paid the duty required by law: These are to license the said _____ to sell and dispose of spirits by retail to be drunk and consumed on the premises abovementioned, or to be taken therefrom at the option of the purchaser in quantities not exceeding the quantities mentioned in the said Act, and subject generally to the provisions of the said Act.

This Licence to be in force from the _____ day of _____ 19 _____, until the 31st day of March, 19 _____.

Dated this _____ day of _____ 19 _____.

*Clerk of the Courts for the
parish of*

(Section 5) (FORM OF A TAVERN LICENCE)

No.
Jamaica SS.

At a Licensing Session held under the provisions of the Spirit Licence Act, in and for the parish of _____ on the _____ day of _____ 19 _____, for that purpose, _____ of _____ having been approved of as a _____ Retailer of Spirits, to be drunk or consumed in a certain house, for the accommodation of travellers situated at _____ in the said parish, and having paid the duty required by law: These are therefore to license the said _____ to sell and dispose of spirits to be drunk and consumed on the above-

mentioned premises, and not otherwise and subject to all the provisions of the said Act relating to Tavern Licences.

This Licence to be in force from _____ until the
31st day of March, 19 _____

Dated this _____ day of _____ 19 _____
Clerk of the Courts for the
parish of _____

(FORM OF AN HOTEL LICENCE)

(Section 5)

No.
Jamaica SS.

At a Licensing Session held under the provisions of the Spirit Licence Act, in and for the parish of _____ on the
day of _____ 19 _____ for that purpose,
of _____ having been approved of as a
Retailer of Spirits, to be drunk or consumed in a certain hotel, situated
at _____ in the said parish, and having paid the duty
required by law: These are therefore to license the said
_____ to sell and dispose of spirits to be drunk and
consumed on the abovementioned premises subject to the provisions
of the abovenamed Act relating to Hotel Licences.

This Licence to be in force from _____ until the
31st day of March, 19 _____

Dated this _____ day of _____ 19 _____
Clerk of the Courts for the
parish of _____

(FORM OF A CLUB LICENCE)

(Section 5)

No.
Jamaica SS.

At a Licensing Session held under the provisions of the Spirit Licence Act, in and for the parish of _____ on the
day of _____ 19 _____ for that purpose,
of _____ proprietor, or
secretary, of a registered club known as
having been approved of as a retailer of spirits to be drunk or con-
sumed on the said club premises situated at
in the said parish and having paid the duty required by law: These
are therefore to license the said _____ to sell and
dispose of spirits to be drunk and consumed on the said club premises

SPIRIT LICENCE

and not otherwise and subject to all the provisions of the said Act relating to club licences.

This Licence to be in force from the day of 19
until the thirty-first day of March, 19 .

Dated this day of 19 .

*Clerk of the Courts for the
parish of*

(Section 29)

(FORM OF ORDER FOR A TRANSFER LICENCE)

No.
Jamaica SS.

At a Licensing Session held under the provisions of the Spirit Licence Act, in and for the parish of on the
day of 19 , for that purpose,

 carrying on business as a having
at in the parish of applied for permission to transfer his licence from the house for which
it was originally granted, to the house now in his possession at
 or to of

in the said parish of (*as the case may be*) and it
having been proved to the Licensing Authority that the conditions
relating to transfers have been complied with, and that the proper
Licence Duty has been paid, the application to transfer the Licence
to was granted.

Dated this day of 19 .

*Clerk of the Courts for the
parish of*