



FALKLAND ISLANDS

Licensing Ordinance 1994

(ORDINANCE No. 18 OF 1994)

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FALKLAND ISLANDS

Licensing Ordinance 1994

AN ORDINANCE To make new provision in relation to the licensing and conduct of premises used for the sale of intoxicating liquor, in relation to the consumption of intoxicating liquor, the sale of tobacco and for the purposes connected with the foregoing purposes.

*[DATE OF COMMENCEMENT: 1ST JANUARY 1995]
(Unless otherwise indicated)*

PART I INTRODUCTORY

1 Short title

This Ordinance may be cited as the Licensing Ordinance 1994.

[Revision w.e.f. 31/07/2017]

2 Interpretation

(1) In this Ordinance, unless the context otherwise requires-

"**bar**" includes any place exclusively or mainly used for the sale and consumption of intoxicating liquor;

"**canteen**" means any premises which are not a mess, in the occupation of the Ministry of Defence, any of Her Majesty's armed services or of the Navy Army and Air Force Institute, and where intoxicating liquor is supplied under the authority of the Commander British Forces;

"**children's certificate**" means a certificate granted under section 66A.

[S. 12/Ord. 8/02/w.e.f. 3/6/02.]

"**cider**" includes perry;

"club licence", in accordance with its context, means a licence of that description granted under the provisions of the repealed Ordinance or a justices' on-licence granted to a club;

"club premises" means premises which are occupied by and habitually used for the purposes of a club;

"court of summary jurisdiction" means either of the Summary Court and the Magistrate's Court;

"family proceedings" has the same meaning as it has in the Children Ordinance;

"full age" means the age of twenty-one years;

"the general licensing hours" has the meaning given by section 42(5)(a);

"grant" in relation to a justices' licence includes a grant by way of renewal or transfer and "application" shall be construed accordingly;

"intoxicating liquor" means spirits, wine, beer, cider and any fermented, distilled or spirituous liquor but does not include-

- (a) any liquor which is found on analysis of a sample thereof at any time to be of an original gravity not exceeding 1016° and of a strength not exceeding 1.2 per cent;
- (b) perfumes;
- (c) flavouring essences recognized by the Collector of Customs as not being intended for consumption as or with dutiable alcoholic liquor;
- (d) spirits, wine or made-wine so medicated as to be, in the opinion of the Collector of Customs, intended for use as a medicine and not as a beverage;

"justices' licence" has the meaning given by section 3(1);

"legal practitioner" has the same meaning as it has under the Legal Practitioners Ordinance;

"licence" has the meaning given by section 3(1);

[S. 12/Ord. 8/02/w.e.f. 3/6/02.]

"licensed premises" includes a reference to premises in relation to which an occasional licence is in force;

"mess" means a mess of members of Her Majesty's naval, military or air forces authorized by the Commander British Forces or other competent authority;

"music and dancing" includes live music, without dancing, and dancing (but not singing) to recorded music;

"occasional licence" means a licence granted under section 83;

"Part V licence" has the meaning given by section 52;

"permitted hours", in relation to any licensed premises, has the meaning given by section 42(5)(b), and in relation to a registered club means all hours whatever;

"prohibition order" means an order under section 76 of this Ordinance or section 26 of the repealed Ordinance;

"protection order" has the meaning given by section 12(l);

"publican's retail licence" means a licence of that description granted or renewed under the provisions of section 7 of the repealed Ordinance;

"registration certificate" means a certificate of registration of a club granted by the Summary Court under Part III of this Ordinance;

"the repealed Ordinance" means the Licensing Ordinance (Laws of the Falkland Islands, 1950 Edition, Chapter 38);

"residential licence" has the meaning given by section 53(2) of this Ordinance;

"restaurant licence" has the meaning given by section 53(1) of this Ordinance;

"residential and restaurant licence" has the meaning given by section 53(3) of this Ordinance;

"secretary", in relation to a club, includes any officer of the club or other person performing the duties of the secretary and, in relation to a proprietary club where there is no secretary, the proprietor of the club;

"special hours certificate" means a certificate granted under section 44;

[S. 12/Ord. 8/02/w.e.f. 3/6/02.]

"spouse" ...;

[S. 41/Ord. 7/24/w.e.f. 03/02/25]

"table meal" means a meal eaten by a person seated at a table, or at a counter or other structure which serves the purpose of a table and is not used for the service of refreshments for consumption by persons not seated at a table or structure serving the purpose of a table;

"wholesale licence" means a licence of that description granted under section 3 of the repealed Ordinance;

"winebar licence" is an on-licence which authorises the sale of wine only.

[S. 12/Ord. 8/02/w.e.f. 3/6/02.]

(2) For the purposes of this Ordinance a person shall be treated as residing in any premises, notwithstanding that he occupies accommodation in a separate building, if he is provided with that accommodation in the course of a business of providing board and lodging for reward at those premises and the building is habitually used for the purpose by way of annexe, or overflow in connection with those premises and is occupied and managed with those premises.

(3) In this Ordinance-

- (a) renewing a justices' licence means granting a justices' licence for any premises to the holder of a similar licence in force for those premises;
 - (b) transferring a justices' licence means granting it for any premises to a person in substitution for another person who holds or who has held a licence for those premises.
- (4) Any reference in this Ordinance to the registered owner of premises shall be construed as a reference to any person whose name is for the time being entered in the register of licences maintained under section 21.

PART II THE GENERAL LICENSING SYSTEM

3 Justices' licences

- (1) In this Ordinance "**justices' licence**" means a licence granted by the licensing justices under this Ordinance authorizing the sale by retail of intoxicating liquor (and also, in the case of a licence granted to a club for club premises, for its supply to or to the order of members otherwise than by way of sale) and includes a Part V licence and an occasional licence.
- (2) In this Ordinance "**justices' on-licence**" and "**justices' off-licence**" mean respectively-
- (a) a justices' licence authorizing sale for consumption either on or off the premises for which the licence is granted;
 - (b) a justices' licence authorizing sale for consumption off those premises only.
- (3) A justices' licence shall be in such form as is prescribed by regulations under this Ordinance and-
- (a) in the case of a justices' on-licence may authorize the sale-
 - (i) of intoxicating liquor of all descriptions; or
 - (ii) of beer, cider and wine only; or
 - (iii) of beer and cider only or
 - (iv) of cider only; or
 - (v) of wine only;
 - (b) in the case of a justices' off-licence, may authorize the sale-
 - (i) of intoxicating liquor of all descriptions; or
 - (ii) of beer, cider and wine only.
- (4) A wine bar licence may be granted in respect of the bar area of premises licensed under a restaurant licence and if so granted the permitted hours in respect of that area shall be those applicable to Part V licences by virtue of section 42(4), but section 53(1)(b) shall not extend to sales under such a wine bar licence.

4 ...

[S. 13/Ord. 8/2002/w.e.f. 3/6/2002.]

5 Licensing justices

(1) Three or more justices of the peace, sitting as the Summary Court, may exercise any of the powers conferred upon the licensing justices by this Ordinance.

(2) The Senior Magistrate shall not be capable, as a justice of the peace, of constituting a member of the Summary Court for the purpose of the exercise by justices of the peace, sitting as the Summary Court, of any of the powers conferred upon licensing justices by this Ordinance.

(3) Nothing in the preceding provisions of this section applies to powers under this Ordinance expressed to be exercisable by a court of summary jurisdiction (that is to say, either by the Magistrate's Court or by the Summary Court).

(4) ...

[S. 3/Ord. 3/2009/w.e.f. 12/6/2009.]

5A Delegation of licensing to the clerk of the Summary Court

(1) This section and sections 5B and 5C apply to applications for-

- (a) the renewal of a licence under section 9;
- (b) the transfer of a licence under section 10;
- (c) a protection order under section 12;
- (d) an extension of permitted hours on a special occasion under section 48; or
- (e) an occasional licence under section 83.

(2) The clerk of the Summary Court may grant an application to which this section applies if-

- (a) the general conditions in section 5B are met; and
- (b) if the special condition in section 5C applies to the application, it is also met.

[S. 43/Ord. 12/2010/w.e.f. 1/2/2011.]

5B Delegation of licensing to the clerk of the Summary Court: general conditions

(1) The general conditions that must be satisfied for the purposes of section 5A(2)(a) are that-

- (a) if notice is required to be given in relation to the application, it has been properly given;
- (b) the Chief Police Officer (or another police officer acting on behalf of the Chief Police Officer) has notified the clerk that there is no objection from the police to the application being granted;
- (c) there has been no other objection to the application;
- (d) if one or more conditions are to be imposed, the applicant has agreed to them; and

- (e) the applicant has not either-
 - (i) been convicted of one or more offences against the Smoking (Prohibition) Ordinance 2010 (or subsidiary legislation made under it); or

[Revision w.e.f. 31/07/2017]

- (ii) been issued with more than three fixed penalty notices for such an offence.

(2) A conviction does not count for the purposes of subsection (1)(e)(i) if it took place more than 3 years previously,

(3) A fixed penalty notice does not count for the purposes of subsection (1)(e)(ii) if it was issued more than 3 years previously.

(4) A fixed penalty notice also does not count for the purposes of subsections (1)(e)(ii) if either-

- (a) it was withdrawn; or
- (b) the person issued with the fixed penalty notice was acquitted following a hearing that took place because either-
 - (i) the person served a hearing notice; or
 - (ii) the fixed penalty notice was revoked.

[S. 44/Ord. 12/10/w.e.f. 1/2/11.]

5C Delegation of licensing to the clerk of the Summary Court: special condition for certain applications

(1) The special condition in subsection (2) applies to applications for-

- (a) the renewal of a licence under section 9, or
- (b) an extension of permitted hours on a special occasion under section 48.

(2) The special condition that must be satisfied for the purposes of section 5A(2)(b) in relation to the applications to which this subsection applies is that there must not have been more than three separate occasions on which one or more persons have been either-

- (a) convicted of an offence against the Smoking (Prohibition) Ordinance (or subsidiary legislation made under it) that was committed on the premises to which the application relates; or
- (b) issued with a fixed penalty notice for such an offence.

(3) An occasion does not count for the purposes of subsection (2) if it took place more than 3 years previously.

(4) A fixed penalty notice does not count for the purposes of subsection (2)(b) if either-

- (a) it was withdrawn; or
- (b) the person issued with the fixed penalty notice was acquitted following a hearing that took place because either-

- (i) the person served a hearing notice; or
- (ii) the fixed penalty notice was revoked.

[S. 44/Ord. 12/10/w.e.f. 1/2/11.]

5D Power to amend sections 5B and 5C

- (1) The Governor may by order amend section 5B in order to vary one or more of the following-
 - (a) the number of occasions (if any) on which a person may be convicted before the condition in section 5B(1)(e) is not satisfied;
 - (b) the number of fixed penalty notices that may be issued before the condition in section 5B(1)(e) is not satisfied;
 - (c) the length of time for which a conviction counts under section 5B(2); and
 - (d) the length of time for which a fixed penalty notice counts under section 5B(3).
- (2) The Governor may by order amend section 5C in order to vary one or more of the following-
 - (a) the number of occasions (if any) on which persons may be convicted or issued with fixed penalty notices before the condition in section 5C(1) is not satisfied; and
 - (b) the length of time for which an occasion counts under section 5C(3).

[S. 44/Ord. 12/10/w.e.f. 1/2/11.]

Grant of justices' licence

6 Grant of justices' licence

- (1) Licensing justices may grant a justices' licence to any such person, not disqualified under this or any other Ordinance for holding a justices' licence, as they think fit and proper.
- (2) A justices' licence may be granted as a new licence or by way of renewal or transfer.
- (3) A justices' licence granted by way of renewal shall be expressed to take effect on 1st July next following the date on which it was granted, a justices' licence granted by way of new licence or by way of transfer shall be expressed to take effect on the day it was granted and every justices' licence shall be expressed to expire on 30th June in the year next following the date on which it was granted.
- (4) Schedule 2 shall have effect with regard to the procedure to be followed in relation to applications for the grant of a justices' licence other than a grant by way of renewal or the grant of an occasional licence.
- (5) Sections 7 to 10, 12 to 26 and 28 do not apply in respect of occasional licences.

7 New licences

(1) Subject to the provisions of Part V, licensing justices on granting a new justices' licence, other than a licence for the sale of wine alone, may attach to it such conditions regarding the tenure of the licence and any other matters as they think proper in the interests of the public; but no payment may be required in pursuance of a condition imposed under this subsection.

[S. 12/Ord. 8/02/w.e.f. 3/6/02.]

(2) Licensing justices shall not grant a new justices' on-licence for premises unless the premises are in their opinion structurally adapted to the class of licence required.

(3) Except as provided by paragraph 6 of Schedule 2, the licensing justices shall not consider an application for a new licence or the provisional grant of a new licence until they are satisfied that the notices required by paragraph 3 of Schedule 2 have been given in conformity with the requirements of that paragraph.

[Ss. 12 and 13/Ord. 8/02/w.e.f. 3/6/02 (as corrected by S.R. & O. 20/13/w.e.f. 3/6/02).]

8 Provisional grant of new licence

(1) Where licensing justices are satisfied, on application by a person interested in any premises which are-

- (a) about to be constructed or in the course of construction for the purpose of being used as a house for the sale of intoxicating liquor (whether for consumption on or off the premises); or
- (b) about to be altered or extended or in the course of alteration or extension for the purpose (whether or not they are already used for that purpose);

that the premises, if completed in accordance with plans deposited under this Ordinance, would be such that they would have granted a justices' on-licence or a justices' off-licence for the premises, they may make a provisional grant of such a licence for those premises.

(2) On an application by the holder of a provisional licence, licensing justices may consent to any modifications of the deposited plans where, in their opinion, the premises if completed in accordance with the modified plans, will be fit and convenient for their purpose.

(3) Licensing justices shall, after such notice has been given as they may require, declare a provisional grant to be final on being satisfied-

- (a) that the premises have been completed in accordance with the plans deposited, or in accordance with those plans with modifications consented to under the preceding subsection; and
- (b) that the holder of the provisional licence is not disqualified by this or any other Ordinance for holding a justices' licence and is in all other respects a fit and proper person to hold a justices' licence.

(4) Until a provisional grant has been declared final under subsection (3) of this section it shall not authorize the sale of intoxicating liquor upon any part of the premises or proposed premises to which it relates.

(5) If on an application for the provisional grant of a justices' licence the applicant deposits, instead of plans of the premises, a plan sufficient to identify the site of the premises together with such description of the premises as will give a general indication of their proposed size and character (with reference in particular to the sale of intoxicating liquor), then-

- (a) the licensing justices shall deal with the application as if the site plan and description deposited instead were the deposited plans, and shall assume that the premises will be fit and convenient for their purpose; but
- (b) any provisional grant of a licence made on the application shall become ineffective unless affirmed under subsection (6) of this section in pursuance of an application to the licensing justices made within the twelve months following the date of the grant.

(6) Where licensing justices make a provisional grant of a licence by virtue of subsection (5) of this section the holder of the provisional licence may apply for the grant to be affirmed, and shall give notice of the application and deposit plans, as if he were applying (otherwise than under that subsection) for the grant of the licence; and the licensing justices shall affirm the provisional grant if satisfied that the premises, if completed in accordance with the plans deposited, will be fit and convenient for their purpose.

9 Renewals

(1) Licensing justices shall consider at a session of the Summary Court held during the second week in May of each year applications for the grant of justices' licences by way of renewal of licences which expire on 30th June next following.

(2) If the volume of business before the licensing justices at the session of the Summary Court held in accordance with subsection (1) shall so require, the licensing justices may adjourn from day to day. In the event that the licensing justices have not, by 31st May in the year in question, notified the holder of the renewal or refusal of the renewal of a justices' licence (other than one the renewal of which the holder has notified the clerk to the Summary Court that he does not intend to apply for) the holder may if he sees fit treat the renewal of the licence as having been refused on that day and appeal to the Magistrate's Court under section 17 as if such renewal had actually been refused.

(3) Unless the holder of a justices' licence or of a licence that takes effect as if it were a justices' licence and which expires on 30th June then next following notifies the clerk to the Summary Court in writing that he does not intend to apply for the grant of a justices' licence by way of renewal of that licence, he shall be deemed to have applied for that renewal and, if it is renewed, is liable to pay all fees payable on renewal of the licence.

(4) A person intending to oppose the renewal of a justices' licence or a licence which takes effect as if it were a justices' licence shall, not later than 30th April in the year in question, give notice in writing of his intention to the holder of the licence and to the clerk to the Summary Court specifying in general terms the grounds of the opposition, and unless notice has been so given the licensing justices shall not entertain the objection.

(5) Evidence given on an application for the renewal of a justices' licence or in opposition thereto shall be given on oath but no evidence need be given if the renewal is not opposed unless the licensing justices otherwise direct.

10 Transfers

(1) Licensing justices shall not grant a transfer of a justices' licence except in the following cases and to the following persons:

- (a) where the holder of the licence has died, to his representatives or to the new tenant or occupier of the premises;
- (b) where the holder of the licence becomes incapable through illness or other infirmity of carrying on business under the licence (and notwithstanding that the licence may have ceased to be in force before the transfer), to his assigns or to the new tenant or occupier of the premises;
- (c) where the holder of the licence has been adjudged bankrupt or has made a voluntary arrangement with his creditors, or a trustee has been appointed under a deed of arrangement within the meaning of the Deeds of Arrangement Act 1914 for the benefit of the creditors of the holder of the licence, to the trustee of the bankrupt's estate or under the deed or to the supervisor of the voluntary arrangement or the new tenant or occupier of the premises;
- (d) where the holder of the licence has given up or is about to give up, or his representatives have given up or are about to give up, occupation of the premises, to the new tenant or occupier of the premises or the person to whom the representatives or assigns have, by sale or otherwise, bona fide conveyed or made over the interest in the premises;
- (e) where the occupier of the premises, being about to quit them, has wilfully given notice that he intends not to apply for renewal of the licence, to the new tenant or occupier of the premises;
- (f) where the owner of the premises or some person on his behalf has been granted a protection order under section 12 of this Ordinance, to the owner or other person applying on his behalf.

(2) For the purposes of subsection (1)(d), a person occupying premises for the purposes of carrying on business under a licence shall be treated as giving up occupation on his giving up the carrying on of the business, notwithstanding that he remains temporarily in occupation of the premises or part of them.

(3) The foregoing provisions of this section, except subsection (1)(e) and (f), shall apply in relation to the transfer of a provisional licence as if the licence were in force and shall, as so applying, be construed as if "occupation" included intended occupation, and similarly as respects other expressions.

(4) Except as provided by paragraph 6 of Schedule 2, the licensing justices shall not consider an application for the transfer of a justices' licence until they are satisfied by evidence given on oath in open court that the notices required by paragraph 3 of that Schedule have been given in conformity with the requirements of that paragraph.

11 Persons and premises disqualified for holding or receiving justices' licence

(1) Without prejudice to-

- (a) any provisions of this or any other Ordinance whereby a person may be disqualified for holding a justices' licence;
- (b) the power of the licensing justices to refuse to grant (whether by way of new grant or by way of transfer or renewal) a justices' licence to any person on the ground-
 - (i) that the character of the applicant is such that, in the licensing justices' view, he is not a fit and proper person to hold such a licence;
 - (ii) in the case of an application for a renewal of a justices' licence, that the manner in which the premises have been conducted during the period since a justices' licence was last renewed or transferred has been such that, in the licensing justices' view, the justices' licence in respect of the premises ought not to be renewed-
- (aa) the following persons shall be disqualified for holding a justices' licence:
 - (i) every officer of the Supreme Court;
 - (ii) every undischarged bankrupt;
 - (iii) subject to subsection (3), every person upon whom a period of imprisonment of more than twelve months in length has been imposed by any court of competent jurisdiction in the Commonwealth;
 - (iv) every person who at any time during the past twelve months has been the subject of a prohibition order;
 - (v) every person under the age of twenty-one years; and
 - (vi) every person of unsound mind;
- (bb) premises shall be disqualified for receiving a justices' licence for twelve months reckoned from the date of the second forfeiture to occur of the forfeitures to which this sub-paragraph relates whenever within any period of two years two persons severally holding a justices' licence for the premises forfeit a justices' licence held for the premises.

(2) A justices' licence purporting to be held by any person disqualified for holding a licence, or attached to premises disqualified for receiving a licence, shall be void.

(3) Nothing in subsection (1)(aa)(iii) shall apply in relation to a sentence of imprisonment imposed by any court outside the Falkland Islands in relation to any act or omission which, if that act or omission had been done or made in the Falkland Islands would not-

- (a) have constituted an offence under the law of the Falkland Islands; or
- (b) if it constituted such an offence, under the law of the Falkland Islands be punishable by imprisonment.

Protection orders

12 Protection orders

(1) A person who proposes to apply for the transfer of a justices' licence for any premises may apply to a court of summary jurisdiction for the grant of an authority, in this Ordinance called a "protection order" to sell intoxicating liquor on the premises, and the court may grant the protection order if it is satisfied that the applicant is a person to whom the licensing justices could grant a transfer of the licence.

(2) The authority conferred by a protection order in respect of any premises shall be the same as that conferred by the justices' licence in force (or last in force) for those premises; and, while the order is in force, the enactments relating to the sale of intoxicating liquor and to licensed premises (other than those relating to the renewal or transfer of licences or to protection orders) shall apply to the person granted the order as if he were the holder of that licence.

(3) Where-

- (a) a justices' licence for any premises is forfeited for the first time by virtue of a second or subsequent conviction under section 60;
- (b) a justices' licence for any premises is forfeited by order of a court of summary jurisdiction made on complaint under section 15(3); or
- (c) a justices' licence for any premises is forfeited by virtue of an order of any court under section 67(9); or
- (d) the holder of a justices' licence for any premises becomes disqualified for holding a justices' licence by reason of being imprisoned as mentioned in section 11(1)(aa)(iii),

a court of summary jurisdiction may grant a protection order to any owner of the premises or any other person authorized by an owner of the premises, notwithstanding the forfeiture or the previous licence holder's disqualification; but not more than one protection order may be granted under this subsection on any such forfeiture or disqualification.

(4) A protection order shall remain in force for a period of four months from the date on which it was granted, except that it shall cease to have effect before that time on the coming into force of a justices' licence granted by way of transfer of the licence for the premises or the coming into force of a further protection order for the premises.

13 Supplementary provisions relating to protection orders

(1) A protection order may be made for any premises as to supersede a previous protection order (other than one made under section 12(3)), if the court making the order is satisfied that the person granted the previous protection order consents to its being superseded, or that he no longer proposes to apply for the transfer of the licence or is not qualified to do so, or that he is for any reason unable to carry on business under the protection order.

(2) A court of summary jurisdiction to which application is made for a protection order may examine on oath the applicant or any other person giving evidence in connection with the application.

(3) A court of summary jurisdiction shall not grant a protection order unless the applicant has, not less than seven days before the application, given notice to the chief police officer or, in an urgent case has given the chief police officer such notice as the court considers to be reasonable.

Control of licensing justices over structure of licensed premises

14 Power to require structural alterations on renewal of on-licence

(1) On an application for renewal of a justices' on-licence the licensing justices may require a plan of the premises to be produced to them and deposited with the clerk to the Summary Court, and on renewing such a licence the licensing justices may order that, within a time fixed by the order, such structural alterations shall be made in the part of the premises where intoxicating liquor is sold or consumed as they think reasonably necessary to secure the proper conduct of the business.

(2) The clerk to the Summary Court shall serve on the registered owner of the premises notice of any order made under this section.

(3) Where an order under this section to make structural alterations is complied with, the licensing justices shall not make a further such order within the five years following the making of the first-mentioned order.

(4) If the holder of the licence makes default in complying with an order under this section, he commits an offence and he commits a further offence for every day on which the default continues after the expiration of the time fixed by the order.

(5) A person convicted of an offence under this section is liable to a fine not exceeding the maximum of level 1 on the standard scale.

(6) The preceding provisions of this section apply also in relation to an application for the transfer of a licence.

15 Consent required for certain alterations to on-licensed premises

(1) No alteration shall be made to premises for which a justices' on-licence is in force if the alteration-

- (a) gives increased facilities for drinking in a public or common part of the premises; or
- (b) conceals from observation a public or common part of the premises used for drinking; or
- (c) affects the communication between the public part of the premises where intoxicating liquor is sold and the remainder of the premises or any street or other public way,

unless the licensing justices have consented to the alteration or the alteration is required by order of some lawful authority.

(2) Before considering an application for their consent under this section, the licensing justices may require plans of the proposed alteration to be deposited with the clerk to the Summary Court at such time as they may determine.

(3) If subsection (1) of this section is contravened, a court of summary jurisdiction may by order on complaint declare the licence to be forfeited or direct that within a time fixed by the order the premises shall be restored to their original condition.

(4) A person aggrieved by an order under subsection (3) of this section may appeal to the Supreme Court.

(5) In this section-

- (a) "**public part**" means a part open to customers who are not residents or guests of residents;
- (b) "**common part**" means a part open generally to all residents or to a particular class of them.

Revocation of justices' licences

16 Revocation of justices' licences

(1) The licensing justices may revoke a justices' licence either of their own motion or on the application of any other person.

(2) The power to revoke a justices' licence under this section is exercisable on any ground on which licensing justices might refuse to renew a justices' licence or a justices' licence of that description.

(3) Licensing justices may only exercise the power conferred by this section if at least twenty-one days' notice in writing of the proposal to exercise the power, or as the case may be, to make the application, has been given to the holder of the licence and, in the case of a proposed application, to the clerk to the Summary Court, specifying in general terms the grounds on which it is proposed that the licence should be revoked.

(4) Evidence given for the purpose of proceedings under this section shall be given on oath.

(5) A decision under this section to revoke a justices' licence shall not have effect-

- (a) until the expiry of the time for appealing against that decision; or
- (b) if the decision is appealed against, until the appeal is disposed of.

Appeals

17 Appeals

(1) Subject to subsection (2) of this section, any person aggrieved by any of the following decisions of licensing justices, that is to say-

- (a) a decision granting or refusing to grant a new justices' licence;
- (b) a decision refusing the renewal or transfer of a justices' licence;
- (c) a refusal to declare a provisional grant final or to affirm a pro-visual grant or to give consent, on the application of the holder of a provisional licence to a modification of plans;
- (d) the making of an order under section 14;
- (e) the refusal of a consent required under section 15;
- (f) the revocation of a justices' licence; or
- (g) any decision as to the conditions of a justices' licence,

may appeal to the Magistrate's Court against that decision.

(2) A person may not appeal against the grant of a justices' licence unless he has appeared before the licensing justices and opposed the grant; and no person may appeal against a refusal to attach conditions to a licence or to vary or revoke conditions previously attached, except the person (if any) whose application or request is required for the justices to have jurisdiction to attach or to vary or revoke the conditions.

(3) Where the holder of a justices' licence gives notice of appeal against a refusal by licensing justices to renew that licence or a decision by the licensing justices to revoke it, the licensing justices or the Magistrate's Court may, on such conditions as they think fit or it thinks fit, order that the licence shall continue in force until the determination of the appeal notwithstanding that the appeal is not determined until after the date when the licence would other-wise cease to have effect.

18 Procedural provisions as to appeals

(1) An appeal under section 17 shall be commenced by notice of appeal given by the applicant to the clerk to the Summary Court within fourteen days of the decision appealed against.

(2) On an appeal against the grant of a justices' licence the applicant for the licence and not the licensing justices shall be the respondent, and notice of appeal must be given to him as well as the clerk to the Summary Court.

(3) On an appeal against a refusal to grant a justices' licence, or against a decision as to conditions given on the grant of a justices' licence, any person who appeared before the licensing justices and opposed the grant shall be the respondent in addition to the licensing justices.

(4) On an appeal against a decision to revoke a justices' licence, any person on whose application the licence was revoked shall be the respondent in addition to the licensing justices.

(5) On any appeal under section 17 the clerk to the Summary Court shall transmit the notice of appeal to the clerk to the Magistrate's Court, and the appeal shall be entered and notice thereof given as in a case where the clerk to the Summary Court is required to transmit the notice of an appeal from the Summary Court; and section 6H of the Administration of Justice Ordinance shall apply accordingly with respect to the abandonment of the appeal.

(6) Where a person appears before licensing justices and opposes the grant of a justices' licence, his name and address shall be recorded by the clerk to the Summary Court and, in the event of an appeal against the refusal of the grant or against a decision as to conditions given on a grant, shall be transmitted to the clerk to the Magistrate's Court with the notice of appeal.

(7) Where the same application to licensing justices gives rise to more than one appeal to the Magistrate's Court, the Senior Magistrate may give such directions as he thinks fit for the appeals to be heard together or separately, and where two or more appeals are heard together in the Magistrate's Court may deal with the costs of the appeal, so far as those costs are in his discretion, as if they were a single appeal.

(8) A justice shall not sit with the Senior Magistrate as an assessor or other-wise upon the hearing of an appeal under section 17 from any decision in which the justice took part.

19 Powers of Magistrate's Court on appeals

(1) The judgment of the Magistrate's Court on any appeal under section 17 shall be final and no further appeal shall lie therefrom to any tribunal or authority.

(2) Where the Magistrate's Court allows an appeal against the revocation of a justices' licence which has been continued in force under section 17(3), it may order that, on payment of such fee as would have been payable if the justices had renewed the licence for a period expiring on 30th June next following the allowance of the appeal, the licence shall further continue in force until that date.

Fees and register

20 Fees

(1) Subject to subsection (3) of this section, there may be charged by the clerk to the Summary Court and by the clerk to the Magistrate's Court such fees as may be provided for by Schedule 3.

(2) Schedule 3 may from time to time be replaced or amended by an order made by the Governor under this subsection.

(3) This section shall not affect the court fees chargeable under the Magistrates' Courts Act 1980 in its application to the Falkland Islands or otherwise under any law of the Falkland Islands.

21 Register of licences

(1) The clerk to the Summary Court shall keep a register of licences in such form as may be prescribed by the Senior Magistrate, containing particulars of all justices' licences granted, the

premises for which they were granted, the names of the owners of those premises, and the names of the holders of the licences.

(2) The register of licences shall be received in evidence of the matters required by this or any other Ordinance to be entered into it, and any document purporting to be certified by the clerk to the Summary Court to be a true copy of an entry in the register of licences kept by him shall be received in evidence of any such matters contained in the entry.

22 Convictions, forfeitures and disqualifications to be entered in register

(1) The clerk to the Summary Court shall enter in the register of licence, in such form as may be prescribed by the Senior Magistrate, notice of any conviction of the holder of a justices' licence of an offence committed by him as such, including an offence against any written law of the Falkland Islands relating to the adulteration of drink; and the clerk of the court before whom the holder of a justices' licence is so convicted shall, if he is not the clerk to the Summary Court, forthwith send notice of conviction to the clerk.

(2) The clerk to the Summary Court shall enter in the register of licences any forfeiture of a justices' licence, any disqualification of premises under any enactment and any other matter relating to the licences in the register.

(3) The provisions of this and the preceding section shall be in addition to those of any other enactment requiring entries to be made in the register of licences.

23 Registration of owner, etc.

(1) Every person applying for a new justices' licence shall state the name of the person for the time being entitled to receive, either on his own account or as a mortgagee or other incumbrancer in possession, the rack-rent of the premises for which the licence is granted; and the clerk to the Summary Court shall enter that name in the register of licences as the name of an owner of the premises, and shall endorse that name on the licence and on any further justices' licence granted for the premises granted by way of renewal or transfer.

(2) Whenever, to the knowledge of the person who is for the time being the holder of the licence for the premises, any change occurs in the person or persons who is or are for the time being entitled to receive the rack-rent of the premises, he shall within twenty-eight days of becoming aware of the change give notice in writing containing sufficient particulars thereof to the clerk to the Summary Court, who shall make such entries in the register as may be necessary in the circumstances of the case.

(3) The clerk to the Summary Court shall, on the application of any person whose name is not entered under the preceding provisions of this section, and who has an estate or interest in the premises, whether as owner, lessee or mortgagee, prior or paramount to that of the occupier, enter that person's name in the register as an owner of the premises, but where such an estate or interest is vested in two or more persons jointly, only one of those persons shall be registered as representing that estate or interest.

24 Notice of conviction of licence holder to be given to registered owner

(1) Where the conviction of the holder of a justices' licence is entered in the register of licences under section 22(1), the clerk to the Summary Court shall serve notice of the conviction on the registered owner of the premises.

(2) Where the conviction of the holder of a justices' licence involves the disqualification of the licensed premises, the court before which the conviction takes place shall cause notice of the disqualification to be served on any registered owner of the premises who is not the occupier.

25 Inspection of register

(1) The following persons shall be entitled at any reasonable time to inspect the register of licences on payment of the fee chargeable:

- (a) any person whose name is entered upon the register of electors;
- (b) any owner of licensed premises; and
- (c) any holder of a justices' licence.

(2) Any police or customs officer shall, without payment, be entitled at any reasonable time to inspect the register of licences.

(3) In subsection (1), "**the fee chargeable**" means the fee specified for the purposes of that subsection in Schedule 3 to this Ordinance.

26 Duty of licensing justices to have regard to entries in register

On an application for the grant of a justices' licence the licensing justices shall have regard to any entries in the register of licences relating to the person by whom, or for which, the licence is to be held.

Miscellaneous

27 Proof of justices' licence

(1) Any document purporting to be a justices' licence and-

- (a) to be signed by the majority of the justices present when the licence was granted; or
- (b) to be sealed or stamped with an official seal or stamp affixed or impressed under the authority of the licensing justices and to contain a certificate signed by the clerk to the Summary Court verifying that authority,

shall be received in evidence.

(2) Any document purporting to be a copy of a justices' licence certified under the hand of the clerk to the Summary Court to be a true copy shall be received in evidence.

28 Power to extend existing on-licence to additional types of liquor

(1) On an application by the holder of a justices' on-licence or on the renewal or transfer of such a licence and at the request of the person applying for renewal or transfer, the licensing justices, if satisfied that the application or request is made with the consent of the registered owner, may vary the licence so as to add to the descriptions of intoxicating liquor so authorized to be sold on the licensed premises.

(2) On the variation of a licence under this section the licensing justices shall have the like power to attach conditions as they would have if they were granting the licence (with the variation) as a new justices' on-licence, and any conditions attached may be in addition to or in substitution for any conditions previously attached to the licence.

PART III SALE AND SUPPLY OF INTOXICATING LIQUOR IN CLUB PREMISES

Conditions for supply of intoxicating liquor by clubs

29 Conditions for supply of intoxicating liquor by clubs

(1) No intoxicating liquor shall on any club premises be supplied by or on behalf of the club to a member or guest, unless the club is registered under this Ordinance in respect of those premises or the liquor is supplied under the authority of a justices' licence held by the club for the premises (but a club shall not be registered in respect of any premises in respect of which a justices' licence is held, neither shall a justices' licence be granted in respect of any premises in respect of which a club is registered under this Ordinance, nor shall a club be registered in respect of any premises if a justices' licence is held on behalf of that club in respect of any premises whatsoever).

(2) No intoxicating liquor shall, on any premises in respect of which a club is registered, be supplied by or on behalf of the club for consumption off the premises except to the member in person.

(3) Intoxicating liquor shall not be supplied by or on behalf of a registered club to a member or guest except at premises in respect of which the club is registered or any premises or place which the club is using on a special occasion for the accommodation of members and to which persons other than members and their guests are not permitted access; and at any premises or place other than the premises in respect of which the club is registered intoxicating liquor shall be so supplied only for consumption in the premises or place.

(4) A person supplying or authorizing the supply of intoxicating liquor in contravention of subsection (1) commits an offence and is liable on conviction of that offence to imprisonment for a term not exceeding six months, or to a fine not exceeding the maximum of level 4 on the standard scale, or to both, and a person supplying or obtaining intoxicating liquor in contravention of subsection (2) or (3) commits an offence in respect of which he is liable on conviction to a fine not exceeding the maximum of level 3 on the standard scale.

(5) If intoxicating liquor is kept in any premises or place by or on behalf of a club for supply to members in contravention of this section, every officer of the club commits an offence unless he shows that it was so kept without his knowledge or consent and is liable on conviction of that offence to a fine not exceeding the maximum of level 3 on the standard scale.

Registered clubs

30 Registration of clubs

(1) A club is registered, within the meaning of this Ordinance, in respect of any premises if and so long as it holds for those premises a certificate of the Summary Court under this Part of this Ordinance.

(2) Subject to the provisions of this section and of section 37(4), a registration certificate shall have effect for twelve months, but may from time to time be renewed, and may at any time be surrendered by the club.

(3) Any renewal of a registration certificate shall be for one year from the expiry of the period for which the certificate was last issued or renewed.

(4) An application by a club for the issue or renewal of a registration certificate shall be made to the Summary Court and shall comply with the requirements of Schedule 4; and the provisions of Schedule 5 shall have effect as regards the procedure for registration and related matters.

(5) Where an application for the renewal of a registration certificate is made not less than 28 days before the certificate is due to expire, the certificate shall continue in force until the application is disposed of by the Summary Court.

(6) Where an application is duly made in accordance with this Part of this Ordinance for the issue or renewal of a registration certificate, the Summary Court shall not, in the absence of an objection duly made in accordance with this Part of this Ordinance, refuse the application except as provided in the following provisions of this Ordinance; and the Summary Court shall state in writing the grounds of any refusal to issue or renew a registration certificate.

(7) Where, immediately before the commencement of this Ordinance, a club licence granted under the repealed Ordinance was held in respect of club premises, that licence shall after the commencement of this Ordinance and until 30th June next after that commencement and subject to this subsection have effect as if it were a certificate granted under this Part in respect of those premises but-

- (a) such licence shall cease so to have effect on the nineteenth day after the commencement of this Ordinanceⁱ if before that date there is not paid to the Financial Secretary the transitional continuation fee specified for the purpose in Schedule 1;

[S. 2/Ord. 4/95/w.e.f. 1/1/95.]

- (b) subject to paragraph (a), where application is made under this Part on behalf of the club for a registration certificate in respect of the same premises as those to which the club licence relates and is refused such licence may under section 36(4) be continued in force after 30th day of June next after the commencement of this Ordinanceⁱⁱ pending

determination of any appeal against that refusal and as if that refusal had been a refusal to renew a registration certificate in respect of the same premises.

31 Qualifications for registration

(1) A club shall only be qualified to receive a registration certificate (whether in the first instance or by way of renewal), if the issue of such a certificate would not cause a contravention of section 29(1) and under the rules of the club-

- (a) persons may not be admitted to membership or be admitted as candidates for membership to any of the privileges of membership, without an interval of at least two days between their nomination or application for membership and their admission; and
- (b) persons becoming members without prior nomination or application may not be admitted to the privileges of membership without an interval of at least two days between their becoming members and their admission.

(2) A club shall be qualified to receive a registration certificate for any premises (whether in the first instance or by way of renewal), only if-

- (a) it is established and conducted in good faith as a club and has not less than five members;
- (b) intoxicating liquor is not supplied, or intended to be supplied, to members on the premises otherwise than by or on behalf of the club; and
- (c) the purchase for the club, and the supply by the club, of intoxicating liquor (so far as not managed by the club in general meeting or otherwise by the general body of members) is managed by an elective committee, as defined by Schedule 6;
- (d) no arrangements are or are intended to be made-
 - (i) for any person to receive at the expense of the club any commission, percentage or similar payment on or with reference to purchases of intoxicating liquor by the club;
 - (ii) for any person directly or indirectly to derive any pecuniary benefit from the supply of intoxicating liquor by or on behalf of the club to members or guests, apart from any benefit accruing to the club as a whole and apart also from any benefit which a person derives indirectly by reason of the supply giving rise or contributing to a general gain from the carrying on of the club; and
- (e) no justices' licence is held in respect of the premises or any part of the premises.

[S.R.&O.14/2024/w.e.f. 31/07/2017]

(3) Subject to subsection (4), in determining whether a club is established and conducted in good faith as a club the Summary Court may have regard-

- (a) to any arrangement restricting the club's freedom of purchase of intoxicating liquor; and
- (b) to any provision in the rules, or arrangement, under which money or property of the club, or any gain from the carrying on of the club, is or may be applied otherwise than for the benefit of the club as a whole or for charitable, benevolent or political purposes;

- (c) to the arrangements for giving members proper information as to the finances of the club, and to the books of accounts and other records kept to ensure the accuracy of that information; and to the nature of the premises occupied by the club.

(4) Where the rules of a club applying for the issue or renewal of a registration certificate conform with Schedule 6, the Summary Court shall assume, as regards any matters not raised by an objection duly made in accordance with this Part, that the club satisfies the conditions of paragraph (a) to (c) of subsection (2) and, in the case of a renewal, also the conditions of paragraph (d) of that subsection, except that the court may, if it sees fit, inquire whether there is any such arrangement or provision in the rules as is referred to in paragraph (a) or (b) of subsection (3), and, if so, whether it is such that the club ought not to be treated as established and conducted in good faith as a club.

32 Disqualification for and refusal of club registration certificate

(1) A registration certificate shall not be issued or renewed, not have effect, for premises disqualified by order under section 35 for use for the purposes of a registered club, nor for licensed premises, nor for premises which include or form part of premises so disqualified or licensed premises; but this subsection does not prevent the issue or renewal for any premises of a registration certificate to take effect on their ceasing to be, include or form part of premises so disqualified or licensed premises.

(2) The Summary Court may refuse an application for the issue or renewal of a registration certificate, if it is proved that a person who, if a certificate is granted, will or is likely to take any active part in the management of the club during the currency of the certificate, is not a fit person, in view of his known character as proved to the court, to be concerned in the management of a registered club.

(3) The Summary Court may refuse an application for the issue or renewal of a registration certificate if the premises or any premises including or forming part of them have been licensed premises within the twelve months preceding the making of the application but have ceased to be licensed premises by the forfeiture or revocation of the licence or by the refusal of an application to renew it.

33 Objection to and cancellation of registration certificate

(1) Objection to an application for the issue or renewal of a registration certificate for any premises may be made by the Attorney General, the chief police officer or by any person affected by reason of his occupation or interest in other premises and may be made on any one or more of the following grounds:

- (a) that the application does not give the information required by this Part or the information is incomplete or inaccurate, or the application is otherwise not in conformity with this Part;
- (b) that the premises are not suitable and convenient for the purpose in view of their character and condition and the size or nature of the club;
- (c) that the club does not satisfy the conditions of section 31(1) and (2) or that the application ought to be refused under section 32;

- (d) that the club is conducted in a disorderly manner for an unlawful purpose, or that the rules of the club are habitually disregarded as respects the admission of persons to membership or in any other material respect;
- (e) that the club premises or any of them (including premises in respect of which the club is not registered or seeking registration) are habitually used for an unlawful purpose, or for indecent displays, or as a resort of criminals or prostitutes, or that in any such premises there is frequent drunkenness, or there have within the preceding twelve months been illegal sales of intoxicating liquor, or persons not qualified to be supplied with intoxicating liquor there are habitually admitted for the purpose of obtaining it,

and the Summary Court, if satisfied that the ground of objection is made, may refuse the application and, in the case of an objection made on any of the grounds mentioned in paragraphs (a) to (c) of this subsection, shall do so unless the case of an objection made on the ground mentioned in paragraph (b) the court thinks it reasonable not to do so, having regard to any steps taken or proposed to be taken to remove the ground of objection.

(2) A complaint against a club for the cancellation of a registration certificate held by the club for any premises may be made in writing to the Summary Court by the Attorney General or the chief police officer, and may be made on any ground on which objection might be made under paragraph (c), (d) or (e) of the preceding subsection to an application for the renewal of the certificate; and the court, if satisfied that on such an objection the application for renewal must or ought to be refused on that ground, shall cancel the certificate.

34 Inspection of premises before first registration

(1) Where a club applies for the issue of a registration certificate in respect of any premises, the chief police officer and any police officer authorized in writing by the chief police officer, the chief fire officer and any fire officer authorized in writing by the chief fire officer may, on at least forty-eight hours' notice to the person signing the application, and if the premises are not occupied by the club, to the occupier, may enter and inspect the premises at any reasonable time on any day, not more than fourteen days after the making of the application, as may be specified in the notice.

(2) If on application by the chief police officer or the chief fire officer to the Summary Court it appears to the court that after reasonable steps had been taken by or on behalf of the applicant to inspect the premises in good time under subsection (1), but it was not possible to do so within the time allowed, the court may extend the time allowed.

(3) Where a club applies for the renewal of a registration certificate in respect of different, additional or enlarged premises, the foregoing subsections shall have effect as if the application were, so far as relates to those premises, an application for the issue of a registration certificate.

(4) Any person obstructing a police officer or a fire officer in the exercise of any power conferred by this section commits an offence and is liable on conviction to a fine not exceeding the maximum of level 3 on the standard scale.

35 Power to order disqualification of premises

(1) Subject to the following provisions of this section, where a club is registered in respect of any premises, and the Summary Court cancels or refuses to renew the registration certificate for those premises on any ground mentioned in section 33(1)(c), (d) or (e), the court may order that for the period specified in the order the premises shall not be occupied and used for the purpose of any registered club.

(2) The period specified in an order under this section shall not exceed one year unless the premises have been subject to a previous order under this section, and shall not in any case exceed five years.

(3) At any time while an order under this section is in force, the Summary Court, on complaint being made by any person affected by the order, may revoke the order or vary it by reducing the period of disqualification specified in it.

(4) Any summons granted on a complaint under subsection (3) shall be served on the Attorney General and on the chief police officer.

36 Notification of alteration in rules of registered club

(1) Where any alteration is made in the rules of a club registered in respect of any premises, the secretary of the club shall give written notice of the alteration to the chief police officer and to the Attorney General.

(2) If the notice required by this section is not given within twenty-eight days of the alteration, the secretary commits an offence and is liable on conviction of that offence to a fine not exceeding the maximum of level 3 on the standard scale.

37 Sale of intoxicating liquor by registered clubs

(1) Notwithstanding anything in any enactment, where a club is registered in respect of any premises, the sale and supply of intoxicating liquor to members of the club and their bona fide guests is permitted upon those premises at any time and the authority of a justices' licence is not required for such sale and supply.

(2) Subject to subsection (2A), Part VII applies to premises in respect of which a club is registered under this Part as if those premises were premises in respect of which a justices' on-licence were in force and as if the officers of the club were joint holders of such a licence and the officers of the club are liable to prosecution and conviction of any offence and punishment in respect thereof under those sections in the same way and to the same extent as they would have been if the premises had been so licensed and they and each of them were a licensee under the licence and servants and agents of the club or officers of the club are so liable in the same way and to the same extent as they would be under that Part if they were the servants or agents of a licensee under a justices' on-licence held in respect of the same premises.

[S. 3(b)/Ord. 5/03/w.e.f. 27/2/03.]

(2A) Part VII does not apply to premises in respect of which a club is registered under this Part insofar as to permit the officers of the club to apply to the Summary Court for the grant of a Children's Certificate under section 66A.

(3) Nothing in subsections (1) and (2) applies in respect of any premises belonging to a club and in respect of which a justices' licence is for the time being in force.

(4) Except that no condition inconsistent with subsection (1) shall be imposed, the Summary Court, on the issue or renewal of a registration certificate for any premises may attach such conditions as it thinks fit.

38 Appeals to Magistrate's Court

(1) A club may appeal to the Magistrate's Court against any decision of the Summary Court refusing to issue or renew a registration certificate, or cancelling a registration certificate, or against any decision of the Summary Court as to the conditions of a registration certificate, or against any order of the Summary Court under section 35.

(2) Where the decision appealed against relates to two or more premises, the appeal may be brought in respect of any of those premises without others.

(3) Where the decision appealed against was given on an application to the Summary Court by the club, no person shall be made a party to the appeal except a person who appeared before the Summary Court to make an objection to or representations on such application, but any such person shall be a party to the appeal whether or not his objection related to the same premises as the appeal.

(4) Where the Summary Court refuses an application for the renewal of a registration certificate, that court or the Magistrate's Court may, on such conditions as it thinks fit, order that the certificate (as in force at the time of the application) shall continue in force pending the determination of an appeal against the refusal, or pending the consideration of the question of bringing such an appeal.

39 Search warrants

If a justice of the peace is satisfied by information on oath that there is reason-able ground for believing-

- (a) that there is ground for cancelling in whole or in part a registration certificate held by a club, and that evidence of it is to be obtained at the club premises or any of them; or
- (b) that intoxicating liquor is sold or supplied by or on behalf of a club in a club premises for which the club does not hold a registration certificate or a justices' licence, or is kept in any club premises for sale and supply in contravention of this Part or any provision of this Ordinance applied by this Part;

he may issue a search warrant under his hand to a police officer authorizing him at any time or times within one month from the date of the warrant to enter the club premises, or any of them, by force if need be, and search them and seize any documents relating to the business of the club.

Licensing of club premises

40 Licensing of club premises

(1) Any justices' licence for club premises which is to be granted to a club shall be taken out or granted in the name of one or more officers of the club nominated for the purpose by or on behalf of the club; and in relation to any premises for which a licence is so taken out or granted-

- (a) the rights and obligations of the holder of the licence under the enactments relating to the sale of intoxicating liquor and to licensed premises shall attach to the person or persons in whose name or names the licence is, and those enactments shall apply as if he or they were, as holder or holders of the licence, in occupation of the premises;
- (b) for the purposes of those enactments any supply of intoxicating liquor by or on behalf of the club to a member as such or to any person on the order of a member shall be treated as a sale of intoxicating liquor to the member and as a supply of the intoxicating liquor to the person to whom it is actually supplied by or on behalf of the club.

(2) Where a justices' licence granted for club premises is subject to conditions forbidding or restricting the sale of intoxicating liquor to non-members, the Summary Court may insert in the licence a provision relieving the holder or holders, if and so far as the court thinks fit in view of those conditions, from compliance with any provision of this Ordinance which requires notices to be displayed in or on licensed premises but does not apply to premises in respect of which a club is registered.

PART IV PERMITTED HOURS

Prohibition of sale, etc., of intoxicating liquor outside permitted hours

41 Prohibition of sale, etc., of intoxicating liquor outside permitted hours

(1) Subject to the provisions of this Ordinance, no person shall, except during the permitted hours-

- (a) himself or by his employee or agent sell or supply to any person in licensed premises any intoxicating liquor, whether to be consumed on or off the premises;
- (b) consume in or take from the premises any intoxicating liquor.

(2) Any person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding the maximum of level 5 on the standard scale.

(3) This section applies in relation to intoxicating liquor sold in any premises under the authority of an occasional licence in the same way as it does in respect of premises licensed under a justices' on-licence.

General provisions as to permitted hours

42 Permitted hours in licensed premises

(1) Subject to the following provisions of this Ordinance, the permitted hours in licensed premises are-

(a) on weekdays, except Fridays and Saturdays, the hours from 10 a.m. to 11 p.m.;

[S.R. & O. 2/95/w.e.f. 20/1/95.]

(b) on Fridays and Saturdays, except Christmas Day and Good Friday, the hours 10 a.m. to 11.30 p.m.;

[S.R. & O. 2/95/w.e.f. 20/1/95.]

(c) on Sundays and Good Friday, twelve noon to half past ten in the evening; and Good Friday, twelve noon to half past ten in the evening;

[S.R. & O. 2/95/w.e.f. 20/1/95 and s. 12/Ord. 8/02/w.e.f. 3/6/02.]

(d) on Christmas Day, twelve noon to half past ten in the evening;

[S. 12/Ord. 8/02/w.e.f. 3/6/02.]

(e) on any day, the hours which-

(i) are hours during which passengers of a cruise ship are paying a visit to Stanley;

(ii) fall between the hours of 10 a.m. and 11.30 p.m.; and

(iii) are not hours during which the sale of intoxicating liquor would be permitted by virtue of any of the paragraphs (a) to (c) of this subsection.

[S.R. & O. 2/95/w.e.f. 20/1/95 and s. 12/Ord. 8/02/w.e.f. 3/6/02.]

In paragraphs (a) to (d) of this subsection "weekday" means every day of the week except Sundays and any day of the week on which Good Friday or Christmas Day falls.

(2) The permitted hours set forth in subsection (1) may be amended by order made by the Governor under this subsection amending the said subsection (1).

(3) In premises licensed only for the sale of intoxicating liquor for consumption off the premises the permitted hours on weekdays and Sundays, other than Christmas Day and Good Friday, shall begin at 8 a.m. but otherwise be the same as those specified in subsection (1)(a).

[S. 3/Ord. 4/95/w.e.f. 1/1/95.]

(4) The permitted hours under a Part V licence shall end on the evening of every day one half of an hour later than those applying under this section in respect of premises for which a justices' on-licence is held.

(5) In this Ordinance-

(a) **"the general licensing hours"** means the hours specified in sub-section (1)(a) to (c); and

(b) references to "the permitted hours" shall, except in so far as the context otherwise requires, be construed in relation to any licensed premises as meaning the hours

between which, by virtue of this Ordinance and any conditions attached to any justices' licence applying to those premises, intoxicating liquor can lawfully be sold or supplied in those premises.

Exceptions

43 Drinking-up time and other exceptions

(1) Where intoxicating liquor is supplied in any premises during the permitted hours, section 42 does not prohibit or restrict-

- (a) during the first twenty minutes after the end of any period forming part of those hours, the consumption of the liquor on the premises, nor, unless the liquor was supplied or is taken away in an open vessel, the taking of the liquor from the premises; or
- (b) during the first half hour after the end of such a period, the consumption of the liquor on the premises by persons taking meals there, if the liquor was supplied as an ancillary to their meals.

(2) Section 42 does not prohibit or restrict-

- (a) the sale or supply to, or consumption by, any person of intoxicating liquor in any premises in which he is residing;
- (b) the ordering of intoxicating liquor to be consumed off the premises, or the despatch by the vendor of liquor so ordered;
- (c) the sale of intoxicating liquor to a trader for the purposes of his trade, or to a registered club for the purposes of the club; or
- (d) the sale or supply of intoxicating liquor to any canteen or mess.

(3) Section 42 does not prohibit or restrict as regards licensed premises-

- (a) the taking of intoxicating liquor from the premises by a person residing there; or
- (b) the supply of intoxicating liquor for consumption on any premises licensed under a residential licence to any private friends of a person residing there who are bona fide entertained by him at his own expense, or the consumption of intoxicating liquor by persons so supplied.

(4) In subsection (2), as it applies to licensed premises, and in subsection (3), references to persons residing on the premises shall be construed as including a person not residing there but carrying on or in charge of the business on the premises.

Special hours certificates

44 Permitted hours where special hours certificate in force

(1) This section applies to licensed premises, or any part of such premises, during the time that there is in force for the premises a special hours certificate granted under the following provisions of this Part.

(2) Subject to the following provisions of this section, the permitted hours on weekdays in any premises or part of premises to which this section applies shall extend to one in the morning following, except that-

- (a) the permitted hours shall end at the time at which music and dancing end on any day on which music and dancing end earlier than one a.m.;

[S. 12/Ord. 8/02/w.e.f. 3/6/02.]

- (b) the permitted hours shall not be extended by virtue of this section on any evening when music and dancing is not provided.

[S. 12/Ord. 8/02/w.e.f. 3/6/02.]

(3) Where the permitted hours are fixed by this section, section 43(1) shall apply to the consumption of liquor on the premises as if in paragraph (a) thereof half an hour were substituted for twenty minutes and paragraph (b) thereof were omitted.

(4) Where a special hours certificate for any premises or part of premises is limited to particular days in every week, this section does not affect the permitted hours in the premises on days on which the certificate does not apply.

45 Special hours certificates for licensed premises

(1) If, on an application made to the licensing justices with respect to licensed premises, the justices are satisfied-

- (a) that the premises are suitable for music and dancing or for the provision of entertainment by live music; and
- (b) that the whole or part of the licensed premises is bona fide used, or intended to be used, for the purpose of providing for persons resorting to the premises music and dancing, or such entertainment to which the sale of intoxicating liquor is ancillary,

[S. 5(a)/Ord. 8/02/w.e.f. 3/6/02.]

the licensing justices may grant, with or without limitations, a special hours certificate for the premises or, if they are satisfied that part only of the premises is used or intended to be used as mentioned in paragraph (b) of this section, for that part.

(2) The licensing justices may grant a certificate under subsection (1) limited in any of the following ways:

- (a) to particular days of the week;
- (b) to particular periods of the year;

(c) so as to exclude any particular day or days of religious or national significance.

(3) Where a special hours certificate is subject to limitations under this section, the licensing justices may on the application of the licensee vary any limitation to which it is so subject.

(3A) Notwithstanding section 44(2) there shall be no extension of permitted hours by virtue of a special hours certificate upon any premises-

- (a) on any night unless not less than seven days before that night notice in writing has been given to the chief police officer of the intention to provide music and dancing or entertainment on that night;
- (b) on more than two occasions in addition to any public holiday and the morning following it falling within any continuous period of seven days.

[S. 5(b)/Ord. 8/02/w.e.f. 3/6/02.]

(4) For the purposes of this Part, music is not provided for persons resorting to the premises or part of the premises in question by reproducing music which has been recorded (to which persons resorting to the premises may sing) but nothing in this subsection prevents the grant of a special hours certificate in respect of the provision of recorded music for dancing if the premises are structurally and otherwise suitable for dancing and bona fide used or intended to be used for that purpose.

(5) There is payable in relation to the grant of a special hours certificate the fee specified in relation thereto in Schedule 3.

46 Revocation of special hours certificate

(1) At any time while a special hours certificate for any premises or part of any premises is in force, the chief police officer may apply to the licensing justices for the revocation of the certificate on the ground that, while the certificate has been in force-

- (a) the premises have not, or the part has not, been used as mentioned in section 44;
- (b) a person has been convicted of having at those premises or that part committed an offence under section 41,

or that on the whole the persons resorting to the premises or part are there at times when the sale or supply of intoxicating liquor there is lawful by virtue only of the certificate, for the purpose of obtaining intoxicating liquor rather than for the purpose of dancing or the other enjoyment of music (including singing) or the obtaining of refreshments other than intoxicating liquor; and if the licensing justices are satisfied that the ground of the application is made out, they may revoke the licence.

(2) At any time while a special hours certificate for any premises or part of any premises is in force, the chief police officer may apply to the licensing justices for the revocation of the licence on the ground that the revocation is expedient by reason of the occurrence of disorderly or indecent conduct in the premises or the part thereof to which the certificate relates; and if the licensing justices are satisfied that the ground of the application is made out, they shall revoke the certificate.

47 Special hours certificates: appeals

(1) Subject to subsection (2), any person aggrieved by a decision of the licensing justices-

- (a) not to grant a special hours certificate under section 45(1);
- (b) to revoke or not to revoke a special hours certificate on an application under section 46(1) or (2);
- (c) to attach or not to attach limitations under section 45(2),

may appeal to the Magistrate's Court against that decision.

(2) Only the Attorney General or the chief police officer may appeal against a decision not to revoke a special hours certificate under section 46(1) or (2).

(3) A person other than the appellant shall be a party to an appeal under this section if, and only if, he has appeared before the licensing justices and made representations in relation to the application to which the decision appealed against relates.

(4) The licensing justices shall have the same powers to make an order for the payment of costs on the abandonment of an appeal under this section as the Summary Court has on the abandonment of an appeal to which section 6H of the Administration of Justice Ordinance 1949 relates.

[Revision w.e.f. 31/07/2017]

47A Admission of persons over 16 to premises licensed under a special hour certificate

(1) Subject to this section, it shall be lawful for persons aged over the age of 16 years but under the age of 18 years to be upon premises in respect of which a special hours certificate is held if the licensee permits them to be present.

(2) Subsection (1) does not apply in respect of public houses or in respect of any premises in respect of which or a time of day in respect of which the licensing justices have under section 4(1) inserted in the special hours certificate a limitation to the contrary.

(3) Subsection (1) only applies during such time as music and dancing or entertainment are provided upon the premises and only applies to that part or those parts of the premises in which it is provided.

(4) Nothing in this section authorises the sale or supply of intoxicating liquor upon the premises to any person under the age of eighteen years.

[S. 6/Ord. 8/02/w.e.f. 3/6/02.]

48 Extensions of permitted hours on special occasions

(1) A court of summary jurisdiction may in respect of a special occasion, subject to this section, grant to the holder of a justices' on-licence an extension of permitted hours at the premises to which the licence relates.

(2) The court shall not grant an extension of permitted hours under subsection (1)-

- (a) unless it is satisfied that the occasion is a special occasion in respect of which it is reasonable to grant such an extension;
 - (b) unless such notice of the application has been given to the clerk to the court and to the chief police officer as the court thinks reasonable in all the circumstances (and unless the court for special reason decides otherwise in the circumstances of any particular case, seven days' notice shall be required).
- (3) The chief police officer shall be entitled to be heard either in person or by his representative in objection to the grant of an extension of permitted hours under this section.
- (4) There shall be payable in respect of every extension of permitted hours the fee specified in Schedule 3 in relation thereto.
- (5) For the purposes of this section, a special occasion is an occasion-
- (a) which creates a potential demand for liquor by those participating in it;
 - (b) which is not an occasion which regularly occurs or recurs throughout the year; and
 - (c) is not a function which, while it may in itself have the character of a special occasion, is a kind of function which occurs with such frequency as to lose its special character,

and by way of example of the application of the foregoing rules, if the court sees fit, it may grant an extension of permitted hours in respect of Christmas Eve and New Year's Eve, but shall not do so in respect of every Friday evening or in respect of regularly occurring functions such as a weekly darts match (although, if it sees fit, it may do so on the occasion of the final of a darts competition).

Parties organized for gain

49 Prohibition of consumption of intoxicating liquor outside general licensing hours at parties organized for gain

(1) It is unlawful either before the beginning or after the end of general licensing hours to supply or consume intoxicating liquor at any party organized for gain and taking place in premises kept or habitually used for the purpose of parties so organized at which intoxicating liquor is consumed; but this subsection does not prohibit anything done at a party taking place in licensed premises or at any party for which an occasional licence has been granted nor anything done as part of the activities of a canteen or mess at the canteen or mess in question.

(2) If any person-

- (a) supplies intoxicating liquor in contravention of subsection (1);
- (b) being the occupier of any premises permits them to be used for a party, and that subsection is contravened at the party;
- (c) being a person concerned in the organization of a party, permits any person to supply or consume intoxicating liquor at the party in contravention of that subsection; or

- (d) being a person licensed to sell intoxicating liquor, delivers such liquor before the beginning or after the end of the general licensing hours to any premises habitually used as mentioned in that sub-section or permits it to be so delivered,

he commits an offence and is liable on conviction of that offence to imprisonment for a term not exceeding three months or a fine not exceeding the maximum of level 4 on the standard scale.

(3) Any person who consumes intoxicating liquor in contravention of subsection (1) commits an offence and is liable on conviction of that offence to a fine not exceeding the maximum of level 3 on the standard scale.

(4) For the purposes of this section, a party shall be deemed to have been organized for gain if any pecuniary advantage accrued or was intended to accrue to any person concerned in its organization as a result of the party; and in determining whether any such advantage so accrued or was intended to accrue no account shall be taken of any expenditure incurred in connection with the party; but a party shall not be deemed to have been organized for gain by reason only that any person concerned in its organization took part or intended to take part in the playing of any game, if the arrangements were such as to give him no greater chance of winning than any other person.

(5) For the purposes of this section, a person shall be deemed to have been concerned in the organization of a party if he took any part in procuring the assembly of the party or in acting as host or assisting the host at the party.

(6) Nothing in this section shall affect the delivery or supply of intoxicating liquor to, or the consumption of intoxicating liquor by, a person in premises in which he is for the time being residing; and in determining for the purpose of this section whether a party is being held in any premises, or whether any premises are kept or habitually used for the purpose of holding parties, the presence of any persons habitually residing in the premises shall be disregarded.

50 Supplemental provisions in relation to parties organized for gain

(1) If a justice of the peace is satisfied by evidence given on oath that there is reasonable ground for believing that any premises are kept or habitually used for the holding of parties at which the provisions of section 49(1) are contravened, he may issue a search warrant under his hand to a police officer authorizing him at any time or times within one month from the date of the warrant to enter those premises, which shall be named in the warrant, by force if need be, and search them and to seize and remove any intoxicating liquor found there that the police officer has reasonable grounds for supposing to be on the premises for the purpose of being supplied or consumed in contravention of the provisions of that section and also to seize and remove any other thing the police officer has reasonable grounds to suppose may be evidence of an offence under that section having been committed.

(2) If any person found on any premises in which intoxicating liquor is seized under subsection (1), on being asked by a police officer for his name and address refuses to give them or gives a false name and address, he commits an offence and is liable on conviction of that offence to a fine not exceeding the maximum of level 2 on the standard scale.

(3) If any person is convicted of an offence under section 49 in respect of the premises in which any intoxicating liquor is seized under this section, the liquor so seized and the vessels containing it shall be forfeited to the Crown.

51 Opening during permitted hours not obligatory

Nothing in this Ordinance shall be taken to require licensed premises to be open for the sale of intoxicating liquor or for any other purpose during the permitted hours, except in so far as they required by any conditions attached to the licence.

PART V RESTAURANTS AND GUEST HOUSES

52 Provisions as to the grant of certain licences for restaurants, guest houses, etc.

(1) In this Ordinance, "**Part V licence**" means a justices' on-licence which-

- (a) is granted for such premises and is subject to such conditions as are mentioned in section 53;
- (b) is not subject to any other condition except-
 - (i) conditions required to be attached to it under section 54 or 55; or
 - (ii) in the case of a licence for club premises, conditions prohibiting or restricting sales of intoxicating liquor to non-members.

(2) A Part V licence is a restaurant licence, a residential licence or a residential and restaurant licence, according as it falls within section 53(1), (2) or (3).

(3) Licensing justices shall not refuse an application duly made for the grant of a new Part V licence or for the renewal or transfer of a Part V licence, except on one or more of the grounds specified in section 56; but this subsection shall not affect the operation of any enactment relating to the disqualification of persons or premises for holding or receiving a justices' licence.

(4) A Part V licence may be granted for wine alone.

(5) Subject to the payment not later than the fifteenth day after the commencement of this Ordinance of such fee as may be prescribed under subsection (6), any restaurant licence or residential licence that was in force immediately before the commencement of this Ordinance and which was granted under section 13A or section 13B (as the case may be) of the repealed Ordinance shall after such commencement (and unless it earlier ceases to have effect under any provision of this Ordinance including subsection (6)) continue in force and effect as if upon such commencement it had been granted as a Part V licence ceasing to have effect on 30th June next following the commencement of this Ordinance.ⁱⁱⁱ

(6) The fee specified in subsection (5) is that specified in relation to the continuation of such licences in Schedule 1 and if such fee has not then been paid by or on behalf of the holder of the licence, that licence shall cease to continue to have effect on the fifteenth day following the commencement of this Ordinance.^{iv}

(7) Subject to the foregoing provisions of this section, all provisions of this Ordinance applicable to or in respect of a Part V licence granted under this Ordinance shall apply to or in respect of a licence continued in force under subsection (5) of this section.

53 Conditions attached to Part V licences for restaurants, guest houses, etc.

(1) In this Ordinance, "**restaurant licence**" means a Part V licence which-

- (a) is granted for premises structurally adapted and bona fide used, or intended to be used, for the purpose of habitually providing the customary main meal at midday or in the evening, or both, for the accommodation of persons frequenting the premises; and
- (b) is subject to the condition that intoxicating liquor shall not be sold or supplied on the premises otherwise than to persons taking table meals there and for consumption by such a person as an ancillary to his meal.

(2) In this Ordinance, "**residential licence**" means a Part V licence which-

- (a) is granted for premises bona fide used or intended to be used for the purpose of habitually providing for reward board and lodging, including breakfast and at least one other of the customary main meals;
- (b) is subject to the condition that intoxicating liquor shall not be sold or supplied on the premises otherwise than to persons residing there or their private friends bona fide entertained by them at their own expense, and for consumption by such a person or his private friend so entertained by him either on the premises or with a meal supplied at but to be consumed off the premises.

(3) In this Ordinance, "**residential and restaurant licence**" means a Part V licence which-

- (a) is granted for premises falling within both subsection (1)(a) and subsection (2)(a); and
- (b) is subject to the condition that intoxicating liquor shall not be sold or supplied otherwise than as permitted by the conditions of a restaurant licence or by those of a residential licence.

(4) The conditions as to the sale and supply of intoxicating liquor set out in subsections (1)(b) and (2)(b)-

- (a) do not extend to the supply for consumption on the premises of intoxicating liquor (whether inside or outside the permitted hours) in any case where section 41 does not prohibit liquor being so supplied outside the permitted hours;
- (b) do not extend to the sale or supply of liquor on the premises under the authority of an occasional licence; but
- (c) subject to the foregoing do extend to all sales of intoxicating liquor on the premises, whether or not requiring the authority of a justices' licence.

(5) Subsection (4)(a) to (c) apply also to any conditions which are in the same terms as those set out in subsection (1)(b) or subsection (2)(b) but are attached to a justices' licence which is not a Part V licence.

(6) It shall be an implied condition of every Part V licence that suitable beverages other than intoxicating liquor (including drinking water) shall be equally available for consumption with or otherwise as an ancillary to meals served in the licensed premises.

54 Requirement of sitting accommodation for residential licence or residential and restaurant licence

(1) Where licensing justices grant a new residential licence or residential and restaurant licence, they shall, unless it appears to them that in the circumstances of the particular case there is good reason not to do so, attach to the licence a condition that there shall be afforded in the premises, for persons provided with board and lodging for reward, adequate sitting accommodation in a room not used or to be used for sleeping accommodation, for the service of substantial refreshment or for the supply or consumption of intoxicating liquor.

(2) Where such a licence is granted without the condition required by subsection (1) the licensing justices shall, on the renewal and transfer of the licence, attach the condition if by reason of any change of circumstances it appears to them that the requirement ought no longer to be dispensed with.

55 Restrictions concerning justices' licences for restaurants and guest houses, etc.

Licensing justices shall not attach to any new justices' on-licence-

- (a) any conditions calculated to restrict the sale or supply of intoxicating liquor to a sale or supply in connection with the service of meals, other than such condition as is required to be attached to a restaurant licence (modified, if need be, to allow for any sale or supply which it is desired to authorize in addition to the sale or supply in connection with the service of table meals); or
- (b) any conditions calculated to restrict the sale or supply to persons residing in the licensed premises, other than such condition as is required to be attached to a residential licence (modified, if need be, to allow for any sale or supply which it is desired to authorize in addition to a sale or supply to persons residing in the premises).

56 Grounds for refusing applications for Part V licences

(1) Licensing justices may refuse an application for the grant of a Part V licence on any of the following grounds:

- (a) that the applicant is not of full age, or is not in any other respect a fit and proper person to hold one;
- (b) that the premises do not fall within section 53(1)(a), (2)(a) or (3)(a), as the case may be, or are not suitable and convenient for the use contemplated by those paragraphs, having regard to their character and condition, to the nature and extent of the proposed use and (where it applies) to the condition as to sitting accommodation required by section 54 or to the supply of intoxicating liquor for consumption as an ancillary to a table meal only;
- (c) that within the twelve months preceding the application-
 - (i) a justices' on-licence for the premises has been forfeited; or

- (ii) the premises have been ill-conducted while a justices' on-licence was in force for them; or
- (iii) the condition as to sitting accommodation required by section 54 has been habitually broken while a residential licence or a residential and restaurant licence, or other licence with the like condition, was in force for the premises; or
- (iv) the condition implied by section 53(6) as to the availability of beverages other than intoxicating liquor has been habitually broken while a Part V licence, or other licence with the like condition, was in force for the premises.

(2) Licensing justices may also refuse an application for the grant of a restaurant licence or residential and restaurant licence on the ground that the trade done in the premises in providing refreshment to persons resorting there (but not provided with board and lodging) does not habitually consist to a substantial extent in providing table meals of a kind to which the consumption of intoxicating liquor might be ancillary.

(3) Licensing justices may also refuse an application for the grant of a Part V licence on the ground that the sale or supply of intoxicating liquor on the premises is undesirable either because it would be by self-service methods, that is to say methods allowing a customer to help himself on payment or before payment, or because-

- (a) in the case of a residential or a residential and restaurant licence, a large proportion of the persons provided with board and lodging for reward;
- (b) in the case of a restaurant licence or a residential and restaurant licence, a large proportion of the persons resorting to the premises but not provided with board and lodging.

is habitually made up of persons under the age of eighteen who are not accompanied by others (whether parents or persons of full age) who pay for them.

(4) If on an application for the grant of a Part V licence for any premises it is made to appear to the licensing justices that-

- (a) the chief police officer or chief fire officer desired to inspect the premises in connection with the application either personally or through a designated police officer or, as the case may be, fire officer; and
- (b) that after reasonable steps had been taken to obtain access to the premises for the purpose of such inspection, it was not possible to inspect the premises,

the licensing justices may refuse the application.

57 Power of court to disqualify for Part V licences on conviction of certain offences

(1) Where a person is convicted of an offence to which this section applies committed by him in respect of premises for which, at the time of the offence, he held a Part V licence, the court by or before which he is convicted may make a disqualification order under this section.

(2) A disqualification order may, at the discretion of the court, be either-

- (a) an order disqualifying the person convicted for such period as may be specified in the order (but not exceeding five years from the date on which the order comes into force) from holding or obtaining Part V licences;
- (b) an order prohibiting such licences being held or granted within such period as aforesaid by or to any person in respect of the premises at which the offence in question was committed; or
- (c) an order imposing both such a disqualification and such a prohibition;

and, if such an order is made, any licence within the disqualification or prohibition, if previously obtained, shall be forfeited or, if subsequently obtained, shall be null and void.

(3) This section applies to the following offences, that is to say:

- (a) offences under sections 61 and 71;
- (b) offences under section 81 and any other offence of permitting the premises to be used as a brothel; and
- (c) any offence under section 82(1) and, without prejudice to the foregoing so far as it relates to games of chance, any offence an element of which is permitting any unlawful game of chance to be played on the premises.

58 Supplementary provisions as to disqualification orders

(1) The court making a disqualification order under section 57 may, on such conditions as it thinks just, suspend the operation of the order with a view to enabling a licence to remain in force pending an appeal against the conviction or against the making of the disqualification order, or pending the consideration of the question of bringing such an appeal; but, unless so suspended, a disqualification order under the section shall come into force on the day it is made.

(2) A court shall not make a disqualification order containing a prohibition on the holding or grant of licences in respect of premises specified in the order, unless an opportunity has been given to any person interested in the premises and applying to be heard by the court to show cause why the order should not be made.

(3) At any time while such a disqualification order is in force, a court of summary jurisdiction, on complaint made by any person affected by the order, may revoke the order or vary it by reducing any period of disqualification or prohibition specified in the order; and any person who has made a complaint under this section and is aggrieved by the decision of the court on that complaint may appeal to the Supreme Court.

(4) Where on a complaint made under subsection (3) the relief asked for is or includes the revocation or variation of a prohibition imposed by the order on the holding or grant of licences in respect of any premises, any summons granted on the complaint shall be served on the chief police officer.

(5) References in any enactment, including this Ordinance, to a person disqualified for holding a justices' licence, or to premises disqualified for receiving a justices' licence shall for the purpose of Part V licences apply, but for other purposes shall not apply, to persons or premises disqualified only by reason of a disqualification order under section 57 of this Ordinance.

(6) The powers of the court under section 57 may be exercised on a conviction in addition to any other powers which the court is required to exercise or does exercise on the conviction.

PART VI GENERAL PROVISIONS REGULATING SALE, ETC., POSSESSION AND DELIVERY OF INTOXICATING LIQUOR

59 Exemption in relation to messes and canteens

(1) Nothing in this Ordinance-

- (a) requiring the authorization of a justices' licence for the sale or supply of intoxicating liquor, or
- (b) restricting the sale or supply of intoxicating liquor to permitted hours or general licensing hours, or
- (c) requiring intoxicating liquor to be paid for before or at the time it is delivered,

applies to any mess or canteen authorized by the Commander British Forces or in relation to any intoxicating liquor sold or supplied in any such mess or canteen.

(2) Sections 64, 67, 73 to 77 and 79 apply in relation to any such mess or canteen as they apply in respect of premises licensed under a justices' on-licence and as if the person or persons for the time being managing the same were the licensee under such a licence and every other person selling or supplying intoxicating liquor in any such mess or canteen were a servant or agent of such a licensee.

60 Selling liquor without licence

(1) Subject to this Ordinance, if any person-

- (a) sells or exposes for sale by retail any intoxicating liquor without holding a justices' licence authorizing the sale of that liquor; or
- (b) holding a justices' licence sells or exposes for sale by retail any intoxicating liquor except at the place for which that licence authorizes the sale of that liquor,

he commits an offence under this section.

(2) Where intoxicating liquor is sold in contravention of this section on any premises, every occupier of the premises who is proved to have been privy or consenting to the sale commits an offence under this section.

(3) A person who commits an offence under this section is liable on conviction to imprisonment for a term not exceeding six months or to a fine not exceeding the maximum of level 5 on the standard scale.

(4) The holder of a justices' licence shall, on his second or subsequent conviction of an offence under this section, forfeit the licence.

(5) The court by or before which a person is convicted of an offence under this section committed after a previous conviction of such an offence may order him to be disqualified for holding a justices' licence-

- (a) on a second conviction, for a period not exceeding five years;
- (b) on a third or subsequent conviction, for any term of years or for life.

(6) The court by or before which the holder of a justices' licence is convicted of an offence under this section may declare all intoxicating liquor in his possession, and the vessels containing it, to be forfeited to the Crown.

61 Selling liquor in breach of conditions of licence

(1) If the holder of a justices' on-licence knowingly sells or supplies intoxicating liquor to any person to whom he is not permitted by the conditions of his licence to sell or supply it he commits an offence under this section.

(2) If the holder of a Part V licence knowingly permits intoxicating liquor sold in pursuance of the licence to be consumed on the licensed premises by persons for whose consumption there he is not permitted by the conditions of the licence to sell it, he commits an offence under this section.

(3) A person convicted of an offence under this section is liable to imprisonment for a term not exceeding six months or to a fine not exceeding the maximum of level 5 on the standard scale.

62 Keeping on premises of liquor of kind not authorized by licence

If without reasonable excuse the holder of a justices' licence has in his possession on the premises in respect of which the licence is in force any kind of intoxicating liquor which he is not of authorized to sell, he commits an offence and is liable on conviction of that offence to a fine not exceeding the maximum of level 3 on the standard scale and shall forfeit the liquor and the vessels containing it.

63 Penalty for breach of terms of off-licence

(1) Where a person, having purchased intoxicating liquor from the holder of a justices' licence which does not cover the sale of that liquor for consumption on the premises, drinks the liquor-

- (a) in the licensed premises;
- (b) in premises which are near to or adjoin the licensed premises and which belong to the holder of the licence or are under his control or used by his permission, or
- (c) on a highway adjoining or near those premises,

then if the drinking is with the privity or consent of the holder of the licence, the holder of the licence commits an offence and is liable on conviction of that offence to a fine not exceeding the maximum of level 3 on the standard scale.

(2) If the holder of a justices' off-licence, with intent to evade the terms of the licence, takes or suffers any person to take, any intoxicating liquor from the licensed premises for the purpose of

its being sold on the holder of the licence's account or for his benefit or profit, he commits an offence and is liable on conviction of that offence to a fine not exceeding the maximum of level 3 on the standard scale.

(3) For the purposes of subsection (2), if liquor is taken for the purpose of its being drunk in any house, tent, shed or other building belonging to the holder of the licence, or hired, used or occupied by him, the burden of proving that he did not intend to evade the terms of the licence shall lie upon him.

(4) If the holder of a justices' off-licence sells any spirits or wine in an open vessel, he commits an offence and is liable on conviction of that offence to a fine not exceeding the maximum of level 3 on the standard scale.

64 Supply of over-measure prohibited

If any person in licensed premises, himself or by his servant or agent sells or supplies to another person as the measure of intoxicating liquor for which he asks an amount exceeding that measure, he commits an offence and is liable on conviction of that offence to a fine not exceeding the maximum of level 3 on the standard scale.

65 Restriction on credit sales

(1) Subject to subsection (2), a person shall not in any licensed premises-

- (a) himself or by his servant or agent sell or supply intoxicating liquor for consumption on the premises; or
- (b) consume intoxicating liquor,

unless it is paid for before or at the time it is sold or supplied; and any person who contravenes this subsection commits an offence and is liable on conviction of that offence to a fine not exceeding the maximum of level 3 on the standard scale.

(2) Subsection (1) does not apply-

- (a) if the liquor is sold or supplied for consumption at a meal supplied at the same time, is consumed with the meal and paid for together with the meal; or
- (b) if, in the case of licensed premises, the liquor is sold or supplied for consumption by a person residing in the premises or his guests and is paid for together with his accommodation.

PART VII PROTECTION OF PERSONS UNDER EIGHTEEN AND OTHER PROVISIONS AS TO CONDUCT OF LICENSED PREMISES

66 Children and young persons prohibited from bars

(1) Subject to this Ordinance-

- (a) the holder of a licence shall not allow a person under eighteen to be in the bar of licensed premises during the permitting hours;
- (b) no person shall cause or procure, or attempt to cause and procure, any person under the age of eighteen years to be in the bar of licensed premises during the permitting hours;
- (c) where it is shown that a person under eighteen was in the bar of any licensed premises, the holder of the licence commits an offence under this section unless he proves either-
 - (i) that he exercised all due diligence to prevent the person under eighteen from being admitted the bar or;
 - (ii) that the person under eighteen had apparently attained that age.

(2) No offence is committed under subsection (1) of this section if-

- (a) if the licensee or the person for the time being in charge of the bar of the premises is satisfied that the person under eighteen is in the company of one of his parents or of a person apparently of 25 years of age or more who is bona fide in charge of him for the time being;
- (b) there is in a force a certificate under section 66A of this Ordinance relating to the bar; and
- (c) the certificate is operational or subsection (3) applies.

(3) This subsection applies where-

- (a) the person under eighteen, or the person in whose company he is, is consuming a meal purchased before the certificate ceased to be operational, and
- (b) not more than thirty minutes have elapsed since the certificate ceased to be operational.

(4) No offence is committed under subsection (1)(b) of this section if the person causes or procures, or attempts to cause or procure, the person under eighteen to be in the bar in the circumstances mentioned in paragraphs (a) to (c) of subsection (2) of this section.

(5) No offence is committed under this section if the person under eighteen-

- (a) is the licence-holder's child, or
- (b) resides on the premises but is not employed there, or
- (c) is in the bar solely for the purpose of passing to or from some part of the premises which is not a bar and to or from which there is no other convenient means of access or egress.

(5A) Subsection (1) does not apply to premises in Camp exempted by order of the Licensing Justices from its provisions.

[S. 3(c)/Ord. 5/03/w.e.f. 27/2/03.]

(6) A person who contravenes this section is liable on conviction to a fine not exceeding the maximum of level 1 on the standard scale.

(7) Where in any proceedings under this section it is alleged that a person was at any time under eighteen, and he appears to the court to have been under that age, he shall be deemed for the purposes of the proceedings to have been then under that age, unless the contrary is shown.

[S. 7 /Ord. 8/02/w.e.f. 3/6/02.]

66A Children's certificates

(1) The holder of a licence for on-sales may apply to the Summary Court for the grant of a certificate in relation to any area of the premises for which the licence is in force which consists of or included the bar.

(2) The Summary Court may grant an application for a certificate under subsection (1) of this section ("**a children's certificate**") if it appears to them to be appropriate to do so, but shall not do so unless they are satisfied-

- (a) that the area to which the application relates constitutes an environment in which it is suitable for persons under eighteen to be present;
- (b) that meals and beverages other than intoxicating liquor will be available for consumption in that area.

(3) Where a children's certificate is in force, the holder of the licence for the licensed premises to which the certificate relates shall keep posted in some conspicuous place in the area to which the certificate relates a notice which-

- (a) states that a children's certificate is in force in relation to that area, and
- (b) explains the effects of the certificate and of any conditions attached to it.

(4) A person who fails to perform the duty imposed on him by subsection (3) of this section commits an offence and is liable on conviction of that offence to a fine not exceeding the maximum of level 1 on the standard scale.

(5) In any proceedings for an offence under subsection (4) of this section, it is a defence for the accused to prove that he took all reasonable precautions and exercised all due diligence, to avoid the commission of the offence.

(6) Schedule 7 to this Ordinance (supplementary provisions) shall have effect.

(7) subsection (1) of this section shall apply to an applicant for a licence as it applies to the holder of a licence, and, in its application by virtue of this subsection, shall have effect as if the reference to premises for which the licence is in force were to the premises which are the subject of the application for a licence for on-sales.

[S. 8/Ord. 8/02/w.e.f. 3/6/02.]

66B Admission of persons under 18 to private functions in a bar

(1) Nothing in section 66 shall operate so as to prohibit the presence of persons under eighteen in the bar of licensed premises during permitted hours if the requirements of this section are satisfied.

(2) The requirements referred to in subsection (1) are that-

- (a) the only persons who are permitted to be present in the bar at the time in question are the licensee, the licensee's employees and persons invited to attend a private function being held in the room in which the bar is;
- (b) at least 48 hours of the holding of the private function has been given by the licensee to the chief police officer and he has not signified any objection to the private function; and
- (c) no intoxicating liquor is sold or supplied to persons under the age of 18, except as may be permitted by any other provision of this Ordinance; and
- (d) that beverages other than intoxicating liquor are supplied or are available for sale at all times the private function is being held in the bar.

[S. 8/Ord. 8/02/w.e.f. 3/6/02.]

67 Serving or delivering intoxicating liquor to or for consumption by persons under eighteen

(1) In licenced premises and in registered club, subject in the case of licensed premises to subsection (3A)-

- (a) the holder of the licence (in the case of licenced premises);
- (b) the committee of the club (in the case of a registered club);
- (c) any person engaged by the holder of the licence or by his employer (in the case licenced premises) or by on on behalf of the club (in the case of a registered club;

shall not sell or supply intoxicating liquor to a person under the age of eighteen or knowingly allow any person under the age of eighteen to consume intoxicating liquor in a bar or knowingly allow any other person to sell or supply intoxicating liquor to a person under the age of eighteen.

[S. 9(a)/Ord. 8/02.]

(2) Subject to subsection (3A), a person under eighteen shall not in licensed premises buy or attempt to buy intoxicating liquor, nor consume intoxicating liquor in a bar.

[S. 9(a)/Ord. 8/02/w.e.f. 3/6/02.]

(3) Subject to subsection (3A), no person shall buy or attempt to buy intoxicating liquor for consumption in a bar in licensed premises by a person under eighteen.

[S. 9(b)/Ord. 8/02.]

(3A) Subject to the conditions specified in subsection (3B) being complied with, subsections (1), (2) and (3) of this section do not prohibit the sale to or purchase by or for a person who has attained the age of sixteen of beer, porter, cider or perry for consumption as an ancillary to a meal taken by him.

[S. 9(c)/Ord. 8/02/w.e.f. 3/6/02.]

(3B) The conditions referred to in subsection (3A) are-

- (a) that the licensee or the person for the time being in charge of the bar of the premises is satisfied that the person sixteen or over is in the company of one of his parents or of a person apparently of at least twenty-five years of age or more who is bona fide in charge of him for the time being;

[S.R. & O. 7/02/w.e.f. 1/5/02 and S.R. & O. 26/02/w.e.f. 15/10/02.]

- (b) that the beer, porter, cider or perry is sold or supplied to the person sixteen or over in an area of the premises to which a children's certificate relates; and
- (c) that the certificate is operational or section 66(3) applies.

[S. 9(c)/Ord. 8/02/w.e.f. 3/6/02.]

(4) Where a person is charged under subsection (1) with the offence of selling intoxicating liquor to a person under eighteen and is charged by reason of his own act, it is a defence for him to prove-

- (a) that he exercised all due diligence to avoid the commission of such an offence; or
- (b) that he had no reason to suspect that the person was under eighteen.

(5) Where the person charged with an offence under subsection (1) is the licence-holder and he is charged by reason of the act or default of some other person, it shall be a defence for him to prove that he exercised all due diligence to avoid the commission of an offence under that subsection.

(6) Subject to subsection (8), the holder of the licence or his servant shall not knowingly deliver, nor shall the holder of the licence knowingly allow any person to deliver, to a person under eighteen intoxicating liquor sold in licensed premises for consumption off the premises, except where the delivery is made at the residence or working-place of the purchaser.

(7) Subject to subsection (8), a person shall not knowingly send a person under eighteen for the purpose of obtaining intoxicating liquor sold or to be sold in licensed premises for consumption off the premises, whether the liquor is to be obtained from the licensed premises or other premises from which it is delivered in pursuance of the sale.

(8) Subsections (6) and (7) do not apply where the person under eighteen is a member of the licence-holder's family or his servant or apprentice and is employed as a messenger to deliver intoxicating liquor.

(9) A person convicted of an offence under this section is liable to a fine not exceeding the maximum of level 4 on the standard scale; and on a person's second or subsequent conviction of such an offence the court may, if the offence was committed by him as the holder of a justices' licence, order that he shall forfeit the licence.

68 Persons under eighteen not to be employed in bars

(1) If any person under eighteen is employed in the bar of any licensed premises at a time when the bar is open for the sale or consumption of intoxicating liquor, the holder of the licence commits an offence and on conviction of that offence is liable to a fine not exceeding the maximum of level 1 on the standard scale.

(2) For the purposes of this section a person shall not be deemed to be employed in a bar by reason only that in the course of his employment in some part of the premises he enters the bar for the purpose of giving or receiving any message or of passing to or from some part of the premises which is not a bar and to or from which there is no convenient means of access or egress.

(3) For the purposes of this section a person shall be deemed to be employed by the person for whom he works notwithstanding that he receives no wages for his work.

(4) Where in any proceedings under this section it is alleged that a person was at any time under eighteen, and he appears to the court to have then been under that age, he shall be deemed for the purposes of the proceedings to have then been under that age unless the contrary is shown.

69 Exclusion from sections 66 and 68 of Part V licensed bars

Nothing in sections 66, 66A, 66B and 68 applies in respect of any bar licensed only under a Part V licence.

[S. 12/Ord. 8/02/w.e.f. 3/6/02; S.R. & O.14/2024/w.e.f. 31/07/2017]

Preservation of order

70 Prohibition of unsupervised off-sales by persons under eighteen

(1) In any premises which are licensed for the sale of intoxicating liquor for consumption off the premises only or any off-sales department of on-licensed premises, the holder of the licence commits an offence if he allows a person under eighteen to make any sale of such liquor unless the sale has been specifically approved by the holder of the licence or by a person of over the age of eighteen acting on his behalf.

(2) The reference in subsection (1) to an off-sales department of on-licensed premises is a reference to any part of the premises for which a justices' on-licence has been granted which is set aside for the use only for the sale of intoxicating liquor for consumption off the premises.

(3) A person convicted of an offence under this section is liable to a fine not exceeding the maximum of level 1 on the standard scale.

71 Licence holder not to permit drunkenness, etc

(1) The holder of a justices' licence shall not permit drunkenness or any violent, quarrelsome or riotous conduct to take place in the licensed premises.

(2) If the holder of a justices' licence is charged under subsection (1) with permitting drunkenness, and it is proved that any person was drunk in the licensed premises, the burden of proving that the licence holder and all persons employed by him took all reasonable steps for preventing drunkenness on the licensed premises shall lie upon him.

(3) The holder of a justices' licence shall not sell intoxicating liquor to a drunken person.

(4) A person who contravenes subsection (1) or subsection (3) commits an offence and is liable on conviction of that offence to a fine not exceeding the maximum of level 2 on the standard scale.

72 Procuring drink for drunken person

(1) Any person who in licensed premises procures or attempts to procure any intoxicating liquor for consumption by a drunken person commits an offence.

(2) Any person who aids a drunken person in obtaining or consuming intoxicating liquor in licensed premises commits an offence.

(3) A person convicted of an offence under subsection (1) or (2) is liable to imprisonment for a term not exceeding one month or to a fine not exceeding the maximum of level 3 on the standard scale.

73 Power to exclude drunkards, etc., from licensed premises

(1) Without prejudice to any other right to refuse a person admission to premises or to expel a person from premises, the holder of a justices' licence may refuse to admit to, or may expel from, the licensed premises any person who is drunken, violent, quarrelsome or disorderly or is the subject of an exclusion order or prohibition order, or whose presence in the licensed premises would subject the licence holder to a penalty under this Ordinance.

(2) If any person liable to be expelled from licensed premises fails to leave the premises when requested by the holder of the justices' licence, his agent or servant or by a police officer, he commits an offence and is liable on conviction of that offence to a fine not exceeding the maximum of level 1 on the standard scale.

(3) Any police officer shall, at the request of the holder of a justices' licence or his agent or servant, help to expel from the licensed premises any person liable to be expelled from them under this section, and may use such force as may be required for the purpose.

Exclusion orders

74 Exclusion orders

(1) Where a court by or before which a person is convicted of an offence committed on licensed premises is satisfied that in committing the offence he resorted to violence or offered or threatened to resort to violence, the court may, subject to subsection (2) make an order (in this Ordinance referred to as an "exclusion order") prohibiting him from entering those premises or any other specified licensed premises.

[S. 2/Ord. 11/03/w.e.f. 10/6/03.]

(2) An exclusion order may be made either-

- (a) in addition to any sentence which is imposed in respect of the offence of which the person is convicted; or

- (b) notwithstanding any other enactment, in addition to a probation order or an order discharging him absolutely or conditionally and in addition to a prohibition order,

but not otherwise and shall not have effect in relation to premises licensed under a justices' off-licence.

(3) An exclusion order shall, unless it is terminated under section 75(2), have effect for such period, not less than three months, or more than two years, as is specified in the order.

75 Penalty for non-compliance with exclusion order

(1) A person who enters any premises in breach of an exclusion order commits an offence and is liable on conviction of that offence to imprisonment for a term not exceeding one month or to a fine not exceeding the maximum of level 3 on the standard scale.

(2) Any court may at any time, either of its own motion or on the application of any person, by order-

- (a) terminate an exclusion order;
- (b) vary it by-
 - (i) deleting the name of any specified licensed premises;
 - (ii) shortening the period for which it remains in force,

and any court may, on any occasion on which it sentences a person in respect of an offence under subsection (1) extend the period which the order remains in force (except that the order shall not be so extended so that it may remain in force for more than three years from the date on which it is extended under this subsection).

Prohibition orders

76 Prohibition order

(1) If a court is satisfied by evidence given on oath given in-

- (a) family proceedings to which the person concerned is a party;
- (b) criminal proceedings in which the person concerned stands or stood charged with having committed any offence;
- (c) any civil proceedings in which there is a material allegation against the person concerned that he has assaulted or offered violence to any other person;
- (d) proceedings brought specifically in relation to an application for an order under this section;

that a person whether male or female ("the person concerned") is by reason of consumption of intoxicating liquor-

- (i) severely prejudicing his health or neglecting his person;

- (ii) failing to make adequate financial or other provision for any spouse or dependent child for whom it appears the person concerned ought to make provision;
- (iii) frequently violent or abusive to any other person;

the court may make an order under this subsection ("**a prohibition order**").

The court shall at the time of conviction make an order under this subsection in respect of any person it convicts of an offence under subsection (7)(b)(i) (supply etc of intoxicating liquor to a person in subject to a prohibition order).

[S. 10(a)/Ord. 8/02/w.e.f. 3/6/02.]

(2) A prohibition order may be made on the application of any person (including the person concerned) or by the court of its own motion.

An order under subsection (1) may be renewed or further renewed by the court on the application of any person, but the court shall not renew such an order other than on the application of the person concerned without first giving him an opportunity to be heard in opposition to the renewal of the order.

[S. 10 (b) /Ord. 8/02/w.e.f. 3/6/02.]

(3) Except where an application for or for the renewal of a prohibition order is made by the prosecutor in the course of, or at the conclusion of, criminal proceedings, or the court of its own motion in the course of, or at the conclusion of, criminal proceedings initiates consideration of the making of a prohibition order, all proceedings for a prohibition order shall be dealt with in chambers.

[S. 10(b)/Ord. 8/02/w.e.f. 3/6/02.]

[S. 10(c)/Ord. 8/02/w.e.f. 3/6/02.]

(4) A prohibition order may be made in, or at the conclusion of, criminal proceedings, notwithstanding that the person concerned has not been convicted or found guilty of any offence in those proceedings and any prohibition order made in such proceedings shall be deemed not to have been made by way of sentence of the person concerned.

(5) A person aggrieved by the making of a prohibition order in respect of him may apply on motion within twenty-one days of the making of the order to the Supreme Court for the discharge or variation of the order, and the Supreme Court on hearing such motion may make such order as it thinks fit, and this subsection applies in respect of prohibition orders to the exclusion of any provisions of any enactments relating to appeals in civil or criminal proceedings which would otherwise apply in relation thereto.

(6) Proceedings in the Supreme Court pursuant to subsection (5) are civil proceedings, regardless of the nature of the proceedings in which the prohibition order was made.

(7) The effect of a prohibition order shall be to render it unlawful-

(a) for the person concerned-

- (i) subject to subsection (8), to consume, attempt to consume, procure or attempt to procure, intoxicating liquor;

- (ii) subject to subsection (9), in permitted hours to enter or remain in any bar in any premises in respect of which a justices' on-licence (other than a Part V licence) is in force or any bar in premises in respect of which a club is registered;
- (b) for any person who is aware of the order and the identity of the person concerned-
 - (i) subject to subsection (8), to sell or supply to the person concerned, assist him to consume or to procure for him or attempt to procure for him, intoxicating liquor;
 - (ii) who is the holder of a justices' licence or secretary of a registered club or the servant or agent of the holder of a justices' licence or secretary of a registered club, subject to subsection (9) in permitted hours, knowingly and willingly to allow or suffer the person concerned to enter or remain in any bar in the premises to which the justices' licence relates or in any bar upon premises in respect of which the club is registered.

(8) Nothing in subsection (7) applies to the supply or consumption of intoxicating liquor in the course of the sacrament of Holy Communion in accordance with the rites of any religious denomination.

(9) Nothing in subsection (7) prohibits a person from entering in or remaining upon or, subject to section 85(3), from being permitted to enter or remain upon any bar to which a Part V licence relates or which is licensed under an occasional licence.

[S. 4/Ord. 4/95/w.e.f. 1/1/95.]

(10) A prohibition order shall be made so as to have effect for a period of not less than six and not more than twelve months from the date on which it is made, and may be extended for a period of not more than twelve months by any court upon its convicting the person to whom it relates of any offence under subsection (12) of contravening any provision of subsection (7)(a).

(11) A court of summary jurisdiction may on the application of the person to whom a prohibition order relates made at any time not less than six months after the order was made or last extended (whichever is the later) (but so that no application may be made under this subsection within three months of the date on which a previous application in respect of the order under this subsection was last determined by a court) discharge the order or vary it by shortening the period for which it will remain in force.

(12) A person commits an offence who contravenes subsection (7) and-

- (a) if such offence consists of contravening subsection (7)(b)(i) is liable on conviction of that offence to imprisonment for six months or a fine not exceeding the maximum of level 5 on the standard scale; and
- (b) in any other case is liable on conviction to a fine not exceeding the maximum of level 3 on the standard scale and, if he is the person to whom the order relates, to imprisonment for a term not exceeding one month.

(13)...

[S. 24(2)/Ord. 4/2019/w.e.f. 10/4/2019]

(14) A person to whom a prohibition order relates shall be disqualified for holding or obtaining a justices' licence of any kind so long as the order remains in force.

77 Notification of and knowledge of prohibition order

(1) Any court by order under section 76 making extending, varying or discharging a prohibition order shall transmit a copy of that order to the chief police officer who shall in writing inform every holder of a justices' licence of the effect of the order.

(2) Every licensee shall bring every notification from the chief police officer under subsection (1) to the attention of all persons engaged in the sale or supply of intoxicating liquor on or from any premises of which he is the licensee.

(3) In any proceedings for an offence under section 76 in which knowledge of a prohibition order is relevant, the accused shall be deemed to have been aware of the order unless he proves the contrary.

78 Drunken behaviour in public place

(1) A person commits an offence who

- (a) in any public place, while drunk, is disorderly in his behaviour; or
- (b) is, in any public place, found incapable through drunkenness.

(2) A person convicted of an offence under this section is liable to imprisonment for a term not exceeding one month and to a fine not exceeding the maximum of level 2 on the standard scale.

(3) A police officer may arrest without warrant any person whom he reasonably suspects to have committed an offence under subsection (1).

(4) In subsection (1), "**public place**" includes any place to which the public have or are at the material time permitted to have access, whether on payment or otherwise.

Offences in relation to police officers

79 Offences in relation to police officers

If the holder of a justices' licence-

- (a) knowingly suffers to remain on the licensed premises any police officer during any time appointed for the police officer's being on duty, except for the purpose of the execution of the police officer's duty;
- (b) supplies any liquor or refreshment, whether by way of gift or sale, to any police officer on duty except by authority of a superior officer of the police officer; or
- (c) bribes or attempts to bribe any police officer,

he commits an offence and is liable on conviction of that offence to a fine not exceeding the maximum of level 4 on the standard scale.

Offences related to prostitution

80 Prostitutes not to be allowed to assemble on licensed premises

(1) The holder of a justices' licence shall not knowingly allow the licensed premises to be the habitual resort or place of meeting of reputed prostitutes, whether the object of their so resorting or meeting is or is not prostitution; but this section does not prohibit his allowing any such person to remain in the premises for the purpose of obtaining reasonable refreshment for such time as is necessary for that purpose.

(2) A holder of a justices' licence who contravenes subsection (1) commits an offence and is liable on conviction of that offence to a fine not exceeding the maximum of level 3 on the standard scale.

81 Permitting licensed premises to be brothel

(1) If the holder of a justices' licence permits the licensed premises to be a brothel, he commits an offence and is liable on conviction of that offence to imprisonment for a term not exceeding six months or to a fine not exceeding the maximum of level 5 on the standard scale.

(2) If the holder of a justices' licence is convicted, whether under this section or under any other enactment, of permitting his premises to be a brothel, he shall forfeit his licence.

Other prohibited activities

82 Other prohibited activities on licensed premises

(1) If the holder of a justices' licence permits the licensed premises to be used-

- (a) for the purpose of fighting or baiting any animal, bird or other creature;
- (b) for betting (other than for moderate stakes upon the result of any game of pure skill played upon the premises) or for gaming; or
- (c) any sale by auction,

he commits an offence and is liable on conviction of that offence to a fine not exceeding the maximum of level 4 on the standard scale.

(2) Nothing in subsection (1) applies to-

- (a) any raffle or lottery conducted in accordance with, or under a permit granted under, the Lotteries Ordinance;
- (b) the playing for moderate stakes of cribbage or dominoes or other game approved for the purposes of this section by order made by the Governor;
- (c) the operation of any electronic or mechanical gaming or amusement with prizes machine approved by the licensing justices and placed upon the licensed premises with their approval.

(3) For the purpose of this section-

- (a) darts, skittles, shove-halfpenny, billiards, snooker and pool are declared to be games of pure skill (but nothing in this paragraph shall preclude any other game from being, or being found by a court to be, a game of pure skill);
- (b) "moderate stake" means a stake not exceeding £5 on the result of any game.

(4) Any electronic or mechanical gaming or amusement with prizes machine which was upon the licensed premises immediately before the coming into force of this Ordinance shall, until otherwise ordered by the licensing justices under this subsection or 30th June next following the coming into force of this Ordinance (whichever shall first occur) be deemed to have been placed upon the licensed premises, and be there operated, with the approval of the licensing justices.

(5) The licensing justices may approve the placing and operation of an electronic or mechanical gaming or amusement with prizes machine upon licensed premises either subject to conditions or unconditionally and may in the exercise of their powers under this subsection limit the number of such machines which may be placed upon any premises licensed under any justices' licence. No approval under this subsection shall have effect for a period of more than one year at any one time.

(6) No appeal shall lie from a decision of the licensing justices under subsection (5).

PART VIII MISCELLANEOUS

[S. 3(d)/Ord. 5/03/w.e.f. 27/2/03.]

83 Grant of occasional licences

(1) A court of summary jurisdiction may, if satisfied as to the matters mentioned in subsection (2), grant to any person a licence (in this Ordinance called an "occasional licence") authorizing him to sell intoxicating liquor during a period not exceeding five days at some function or event.

(2) The matters as to which the court must be satisfied are-

- (a) that the applicant is a fit and proper person to sell intoxicating liquor;
- (b) that the place where the intoxicating liquor will be sold is suitable and persons under the age of eighteen years can readily and suitably be excluded therefrom;
- (c) that the sale of intoxicating liquor will be merely ancillary to the function or event;
- (d) that the sale of intoxicating liquor at the function is not likely to result in disturbance or annoyance being caused to residents in the neighbourhood of that place, or any disorderly conduct.

(3) An occasional licence shall specify-

- (a) the place where intoxicating liquor may be sold by virtue of the licence;
- (b) the kind or kinds of intoxicating liquor that may be sold by virtue of the licence;

- (c) the hours between which such liquor may be so sold and the date (or dates) on which those hours fall,

and the court may attach to the licence any condition that it thinks proper.

83A Special powers of Summary Court in relation to licences and certificates etc

(1) On convicting a licensee or holder of any certificate granted under this Ordinance of any offence under this Ordinance, the court convicting him-

- (a) if it is not the Summary Court may, in addition to any fine or other penalty imposed upon the licensee or holder of any certificate granted under this Ordinance, remit to the Summary Court for its consideration the question as to whether the Summary Court should not exercise one or more of its powers under this section; and
- (b) If it is the Summary Court may, in addition to any fine or other penalty imposed upon the licensee or holder of any certificate granted under this Ordinance, forthwith proceed to consider whether it should exercise any of its powers under this section.

(2) The Summary Court may at any time, whether or not any other court has remitted the question for its consideration under subsection (1), give not less than seven days' notice to any licensee or holder of a certificate granted under this Ordinance that it intends on such day and at such time and place as is specified in the notice to consider the exercise of one or more of its powers under this section in respect of the licence or certificate. A notice served under this subsection shall specify the ground or grounds upon which the Summary Court intends to consider the exercise of one or more of its powers.

(3) A person upon whom a notice has been served pursuant to subsection (2) shall, if he so desires be heard by the Summary Court on the day or time specified in the notice or any later day or time to which it may adjourn consideration of the matter.

(4) The powers referred to in subsections (1) and (2) are by order-

- (a) to revoke the licence or certificate with effect from such date as may be specified by the Summary Court to a person to be approved by the Summary Court;
- (b) to require the licence or certificate to be transferred within 21 days or such greater period as may be specified by the Summary Court to a person to be approved by the Summary Court;
- (c) to vary the licence or certificate in such manner as may be specified by the Summary Court and
- (d) to prohibit any person specified by the Summary Court from being employed or engaged in or about any licensed premises or registered club in the Falklands Islands in relation to the sale or supply of intoxicating liquor either indefinitely or during such period of time as may be specified by the Summary Court (but the Summary Court shall not exercise this power without first having given the person concerned a reasonable opportunity to be heard in relation to the matter)

(5) The Summary Court shall not vary any licence or certificate pursuant to subsection (4)(c) so as to impose any condition or limitation which it could not lawfully have imposed on the grant or renewal of the licence or certificate.

(6) If the Summary Court exercises its powers under subsection (4)(d) in relation to any-

- (a) any person knowing of the prohibition who employs the person concerned in contravention of that order commits an offence is liable on conviction of that offence to a fine not exceeding the maximum of level 4 on the standard scale;
- (b) that person commits an offence if he, whether in the course of employment or otherwise, is concerned in the sale or supply of intoxicating liquor in or about any licensed premises or registered club and he is liable upon conviction of that offence to imprisonment for a term not exceeding three months or to a fine not exceeding maximum of level 4 on the standard scale.

(7) Any person aggrieved by a decision of the Summary Court under this section may appeal to the Magistrate's Court against the decision and the decision of the Magistrate's Court on such an appeal shall be final.

[S. 11/Ord. 8/02/w.e.f. 3/6/02.]

84 Application for occasional licences

(1) An application for an occasional licence shall be in writing and shall contain the following particulars:

- (a) the name and address of the applicant;
- (b) the date and nature of the function and the place where it is to be held;
- (c) the premises or place in which it is proposed intoxicating liquor will be sold; and
- (d) the kind or kinds of intoxicating liquor proposed to be sold at the function and the hours between which it is proposed that such liquor shall be sold.

(2) An application for an occasional licence shall be made by sending two copies of the application to the clerk to the court to whom it is desired to make application for the occasional licence at least seven days before it is intended that the application shall be heard, but the court may, if for any specific reason it thinks fit, consider and grant the application on shorter notice.

(3) On receiving a notice of application pursuant to subsection (2), the clerk of the court shall forthwith send one copy of it to the chief police officer.

(4) On the consideration of an application for an occasional licence the applicant shall attend in person unless his non-attendance has been excused by the court.

85 Further provisions in relation to occasional licences

(1) On the grant of an occasional licence a fee calculated as specified in paragraph 11 of Schedule 3 shall be paid and, until it has been paid, the licence shall be of no effect.

(2) No occasional licence shall be granted-

- (a) to any person who for the time being is disqualified from holding or obtaining a justices' licence; or
- (b) for any premises which for the time being are disqualified from receiving a justices' licence.

(3) Subject as hereinafter expressed, the provisions of Parts VI and VII apply to premises licensed under an occasional licence, the holder of such a licence and his servants and agents as if the premises licensed under a justices' on-licence and the holder of the occasional licence were a licensee under such a licence, but section 76(7)(b)(ii) (presence of a person subject to a prohibition order on licensed premises) shall not apply unless the court, on granting the occasional licence imposes a condition under section 83(3) to the contrary effect.

[S. 5/Ord. 4/95/w.e.f. 1/1/95.]

86 Right of police officer to enter licensed premises

(1) For the purpose of preventing or detecting any offence under this Ordinance, a police officer may during any time when the same are apparently open to the public, or he reasonably believes them to be so open, enter or remain in any premises licensed under a justices' licence or under an occasional licence.

(2) Any person who hinders or obstructs a police officer in the exercise of his powers under subsection (1) commits an offence and is liable on conviction of that offence to a fine not exceeding the maximum of level 3 on the standard scale.

87 Adulterating liquor

(1) If the holder of a justices' licence-

- (a) mixes any unwholesome ingredient with any intoxicating liquor;
- (b) has in his possession any unwholesome ingredient with intent to mix the same with any intoxicating liquor;
- (c) other than at the request of the person to whom the same is sold or supplied, and in his sight and presence adds any water to any intoxicating liquor;
- (d) permits any servant or agent of his to do anything prohibited by paragraph (a), (b) or (c),

he commits an offence under this subsection.

(2) A person who is the servant or agent of the holder of a justices' licence commits an offence if, while acting as such servant or agent, he does anything which, if that holder had done it, would be an offence by that holder under paragraph (a), (b) or (c) of subsection (1).

(3) A person who commits an offence under this section is liable on conviction to a fine not exceeding the maximum of level 4 on the standard scale and in the case of an offence under subsection (1) by a person who is the holder of a justices' licence, he shall forfeit that licence.

88 Special provision as to sale or supply of intoxicating liquor on ships and on Camp farms or sheep stations

Notwithstanding any foregoing provision of this Ordinance-

- (a) intoxicating liquor may, without the authority of a justices' licence, be sold or supplied at any time aboard any ship to any passenger or member of the crew of that ship and the bona fide guest of any such passenger or member of the crew;
- (b) the owner, lessee or manager of any farm or sheep station may, at any place on that farm or station which is further than 10 kilometres from the spire of Christ Church Cathedral, Stanley, without a justices' licence sell or supply intoxicating liquor at any time to any person who is bona fide employed on that farm or station or any person who is resident or temporarily resident in any dwelling upon, or in close proximity to, that farm or station;
- (c) a person who as a member of the public or otherwise attends-
 - (i) at a sports meeting in Camp; or
 - (ii) at a social function hosted by a settlement in Camp,in either case held at or in close proximity to such a settlement shall, for the purposes of the provisions of this Ordinance relating to supply of intoxicating liquor, and unless the contrary is proved, be treated as a bona fide guest of the member of any club in that settlement on the occasion of any visit to that club he makes during that sports meeting or social function or within forty-eight hours before or after the sports meeting or social function;
- (d) a justices' licence may not be granted to a corporation and a justices' licence presently held by a corporation may at the request of the corporation be renewed in the name of one or more directors, members or employees of the corporation;
- (e) so long as it is not delivered to or to the order of any person who is under the age of eighteen years or who is known to the person delivering it to be the subject of a prohibition order, intoxicating liquor delivered or to be delivered to any person as a prize won in any lottery or amusement with prizes which is lawfully operated shall be deemed not to be intoxicating liquor which is sold or supplied or offered for sale or supply.

89 Limitation of liability for property of guest

(1) The holder of a justices' on-licence shall not be liable in a sum greater than £300 for the loss of, or damage to, any goods or other property of a customer, visitor or guest brought upon the licensed premises unless-

- (a) the goods or other property were stolen, lost or damaged through the wilful act or through the default or neglect of the licensee or any person in his employment on the licensed premises;
- (b) the goods or other property were deposited for safe-keeping with him or some person authorized by him to accept the same on his behalf for safe-keeping.

(2) Where the owner of the business conducted on premises licensed under a justices' on-licence is not the holder of that licence, subsection (1) shall have effect as if he were such holder.

90 ...

[S. 10/Ord. 8/07/w.e.f. 10/8/07.]

91 Regulations

The Governor may make any regulations he thinks necessary or convenient for the carrying out of the purposes of this Ordinance and may by regulations under this subsection vary the amount of any fee prescribed under the provisions of any Schedule to this Ordinance.

SCHEDULE 1 . . .

[S. 13/Ord. 8/02/w.e.f. 3/6/02.]

SCHEDULE 2
APPLICATIONS FOR JUSTICES' LICENCES

1. A person proposing to apply for the grant of a new justices' licence or the transfer of a justices' licence, shall first apply in writing to the clerk to the Summary Court to nominate a date not less than four weeks and not more than five weeks from the date of the notification pursuant to paragraph 2 of this Schedule ('the nominated date') on which the application, if the notice is given in accordance with the following paragraphs of this Schedule, will be considered.

2. The clerk to the Summary Court on receiving an application to nominate a date made pursuant to paragraph 1 shall within three days from the receipt of the application notify the applicant in writing of the nominated date.

3. The applicant shall then-

- (a) not less than twenty-one days before the nominated date give notice in writing of the application to the clerk to the Summary Court, the chief police officer and to the Chief Executive and, if the application is an application for the grant of a new licence, also to the chief fire officer;

[S. 24(3)/Ord. 4/2019/w.e.f. 10/4/2019]

- (b) if the application is an application for a transfer, give the like notice to the holder of the licence (if any);

(c) except where the application is for a transfer-

- (i) display notice of the application for a period of seven days in a place where it can conveniently be read by the public on or near the premises to be licensed (or, in the case of an application for a provisional grant, on or near the proposed site of those premises);
- (ii) not more than twenty-eight days nor less than fourteen days before the nominated date, advertise notice of the application in a newspaper circulating in the Falkland Islands.

4. Where the application is an application for a new justices' licence or, except where the application is made pursuant to section 8(5), for the provisional grant of a new justices' licence, with the notices of the application sent under paragraph 2 the applicant shall supply a copy of a plan of the premises to be licensed.

5. A notice under this Schedule-

- (a) shall be signed by the applicant or his authorized agent;
- (b) shall state the name and address of the applicant;
- (c) shall state the situation of the premises to be licensed;

- (d) in the case of a new licence, shall state the kind of licence for which application is to be made;
- (e) shall state the date on which it is intended the application shall be dealt with by the licensing justices in the Summary Court (which date shall be the nominated date);
- (f) shall state that any person intending to oppose the application should give notice of his intended opposition to the applicant and to the clerk to the licensing justices not later than three clear days before the date notified under sub-paragraph (e).

6. Where an applicant for a new justices' licence has, through inadvertence or misadventure, failed to comply with the preceding paragraphs of this Schedule, the licensing justices may, upon such terms as they think fit, postpone consideration of his application; and, if on the postponed consideration they are satisfied that any terms so imposed have been complied with, they may deal with the application as if the applicant had complied with those requirements.

SCHEDULE 3
COURT FEES PAYABLE IN CONNECTION WITH JUSTICES' LICENCES

[S. 13/Ord. 5/16/w.e.f. 1/7/16; art. 3/S.R.&O. 9/18/w.e.f. 31/7/18; S. 23/Ord. 11/19/w.e.f. 1/7/19; Sch.Pt.A/Ord. 13/2022/w.e.f. 01/07/2022; Sch.Pt.A/Ord. 5/2023/w.e.f. 01/07/2023; Sch.Pt.A/Ord. 6/2024/w.e.f. 01/07/2024; Sch.Pt.A/Ord. 5/2025/w.e.f. 01/08/2025; Sch. Pt.A/Ord. 4/2026/w.e.f. 01/07/2026]

1. Application for the grant of a new justices' licence (including an application for a transfer)	£90.00
2. Grant (including a grant on transfer) or renewal of a justices' on-licence (other than a Part V licence or an occasional licence)	£125.00
3. Grant (including a grant on transfer) or renewal of a Part V licence	£125.00
4. Grant (including a grant on transfer) or renewal of a justices' off-licence	£125.00
5. Application for a protection order	£62.00
6. Grant of an application for a protection order	£76.00
7. Inspection of the register of licences pursuant to section 25(1)	£13.00
8. Application for a special hours certificate	£90.00
9. Grant of a special hours certificate	£125.00
10. Application for a club registration certificate	Nil
11. Grant or renewal of a club registration certificate	£99.00
12. Application for a children's certificate	Nil
13. Grant or renewal of a children's certificate	£62.00
14. Application for a Camp exemption order	Nil
15. Grant of a Camp exemption order	£25.00
16. Application for an extension of permitted hours	£25.00
17. Grant of an extension of permitted hours (for every hour or part thereof to which the extension relates)	£20.00
18. Application for an occasional licence	£25.00
19. Grant of an occasional licence (for every day or part thereof to which the occasional licence relates)	£30.00 (up to a maximum of £70.00 per licence)
20. Application for a prohibition order	Nil

SCHEDULE 4
REQUIREMENTS TO BE COMPLIED WITH BY CLUB'S APPLICATION FOR
REGISTRATION CERTIFICATE

1. The application shall specify the name, objects and address of the club, and shall state that there is kept at that address a list of the names and addresses of the members.
2. The application shall state in terms of section 30(1) and (2) of this Ordinance that the club is qualified under those subsections to receive a registration certificate for the premises.
3. The application shall set out, or shall incorporate a document annexed which sets out, the names and addresses of the members of any committee having the general management of the affairs of the club, and those of the members of any other committee concerned with the purchase for the club or with the supply by the club of intoxicating liquor, and those of the other officers of the club.
4. (1) The application shall state, or shall incorporate a document annexed which states, the rules of the club or, in the case of an application for renewal, the changes in the rules of the club made since the last application for the issue or renewal of the certificate.

(2) If, in the case of an application for renewal, there has been no such change as aforesaid, the application shall so state.
5. The application shall-
 - (a) identify the premises for which the issue or renewal of the registration certificate is sought;
 - (b) state that those premises are or are to be occupied by and habitually used for the purposes of the club;
 - (c) state the interest held by or in trust for the club in those premises and, if it is a leasehold interest or if the club has no interest, the name and address of any person to whom payment is or is to be made of rent under the lease or otherwise for use of the premises.
6. (1) The application shall give, or shall incorporate a document annexed which gives-
 - (a) particulars of any property not comprised in paragraph 5 which is or is to be used for the purposes of the club and not held by or in trust for the club absolutely, including the name and address of any person to whom payment is or is to be made for the use of that property;
 - (b) particulars of any liability of the club in respect of the principal or interest of moneys borrowed by the club or charges on property held by or in trust for the club, including the name and address of the person to whom payment is or is to be made in account of that principal interest;
 - (c) particulars of any liability of the club or of a trustee for the club in respect of which any person has given any guarantee or provided any security, together with particulars of the

guarantee or security given or provided, including the name and address of the person giving or providing it.

(2) An application for renewal, or document annexed to it, may give the particulars required by this paragraph by reference to the changes (if any) since the last application by the club for the issue or renewal of the registration certificate.

(3) If there is no property or liability of which particulars are required by any provision of subparagraph (1), the application shall so state.

(4) In this paragraph, "liability" includes a future or contingent liability.

7. (1) The application shall give, or shall incorporate a document annexed which gives, particulars of any premises not comprised in paragraph 5, which have within the preceding twelve months been occupied and habitually used for the purposes of the club, and shall state the interest then held by or in trust for the club in those premises and, if it was a leasehold interest or if the club had no interest, the name and address of any person to whom payment was made of rent under the lease or otherwise for the use of the premises.

(2) If there are no premises of which particulars are required by this paragraph, the application shall so state.

8. Where the interest held by or in trust for the club of which particulars are required by paragraph 5, 6 or 7 of this Schedule is or was a leasehold interest, and the rent under the lease is not or was not paid by the club or the trustees for the club, the application shall state the name and address of the person by whom it was paid.

SCHEDULE 5
PROCEDURE ON APPLICATIONS AND COMPLAINTS RELATING TO
REGISTRATION CERTIFICATES

PART I
ISSUE, RENEWAL AND SURRENDER OF REGISTRATION CERTIFICATES

Applications, etc.

1. (1) An application by the club for the issue, renewal or variation of a registration certificate shall be made by lodging the application, together with the number of additional copies required under paragraph 4, with the clerk to the Summary Court.

(2) The court may, on such conditions as the court thinks fit, allow such an application to be amended.

(3) An amended application shall be made by lodging with the clerk to the Summary Court the original application or the relevant parts of it altered so as to show the amendments, together with the number of additional copies required under paragraph 4.

2. A registration certificate shall be surrendered by lodging with the clerk to the Summary Court a notice of surrender, together with the certificate and such number of additional copies required under paragraph 4.

3. (1) Any such application or amended application and any such notice shall be signed by the chairman or by the secretary of the club.

(2) In the absence of objection the court shall not require proof that an application or amended application is so signed.

4. On receipt of any such application or amended application or of any such notice the clerk to the Summary Court shall forthwith send a copy to the chief police officer and to the Attorney General and the chief fire officer and the number of additional copies required to be lodged with the clerk is the number necessary to provide the copies the clerk requires for the purpose.

5. A club applying for the issue of a registration certificate for any premises, or for the renewal of a registration certificate in respect of different, additional or enlarged premises, shall give public notice of the application (identifying those premises and giving the name and address of the club) either-

- (a) by displaying the notice on or near the premises, in a place where it can conveniently be read by the public, for the seven days beginning with the date of the application; or
- (b) by advertisement in a newspaper circulating in the Falkland Islands in the two weeks commencing with the date of the application.

Objections, etc.

6. An objection to an application for the issue or renewal of a registration certificate shall be made by lodging with the clerk to the Summary Court two copies in writing of the objection not later than twenty-one days after the making of the application or, if the application is amended, after the making of the amended application.

7. On receipt of an objection to an application for the issue or renewal of a registration certificate the clerk to the Summary Court shall forthwith send a copy to the person signing the application at an address furnished by him for communications relating to the application or, in default of such an address, at the address given in the application as that of the club.

8. Paragraphs 6 and 7 of this Schedule shall apply in relation to any notice of intention, on an application for the issue, renewal or variation of a registration certificate, to make representations as to conditions relating to the sale of intoxicating liquor as they apply to objections to an application for the issue or renewal of a registration certificate (with the substitution of references to giving the notice for references to making the objection).

9. Where any such objection or any such notice is given, the Summary Court may make such order as it thinks just and reasonable for the payment of costs to the club by the person making the objection or giving the notice or by the club to that person; and for the purposes of enforcement the order shall be treated as an order for the payment of a sum enforceable as a civil debt.

10. (1) Subject to sub-paragraph (2) of this paragraph, an objection to an application for the issue or renewal of a registration certificate shall specify the ground of objection with such particulars as are sufficient to indicate the matters relied on to make it out.

(2) Where objection is made to an application for the issue or renewal of a registration certificate on the ground that the application does not give the information required by this Ordinance, or the information is incomplete or inaccurate, or the application is not otherwise in conformity with this Ordinance, it shall be sufficient for the objection to state the ground as a matter of suspicion, and to indicate the reasons for the suspicion.

11. Where, on an objection to an application for the issue or renewal of a registration certificate, there appears to the court to be good reason to suspect that the application does not give the information required by this Ordinance, or that the information is incomplete or inaccurate, or the application is otherwise not in conformity with this Ordinance, it shall be for the applicant to satisfy the court that the ground of objection cannot be made out, unless the applicant desires and is permitted to amend the application so as to remove the ground of objection.

PART II COMPLAINT FOR CANCELLATION OR VARIATION OR REGISTRATION CERTIFICATE

12. (1) A summons issued on a complaint made against a club for the cancellation or variation of a registration certificate shall be served on the chairman or secretary of the club or the person

who signed the last application for the issue or renewal of the certificate, and that service shall be treated as service on the club.

(2) Any such summons shall, in addition to being served on the club, be served on such persons, if any, as the justices issuing the summons may direct.

(3) Only the Summary Court shall have jurisdiction to deal with any such complaint.

13. Where it appears to the Summary Court that the summons cannot be served on the club in accordance with paragraph 12, or not without undue difficulty or delay, the court may order that service on the club may be effected by serving the summons on a person who appears to the court to have, or to have had, an interest in the club, or to be, or to have been an officer of the club.

14. A complaint may be made against the club for the cancellation of a registration certificate on the ground that the club has not twenty-five members, notwithstanding that the complainant's case is that the club does not exist.

PART III GENERAL

15. (1) The Summary Court may deal with an application by a club for the issue, variation or renewal of a registration certificate without hearing the club, but before refusing such an application, shall give the club an opportunity to be heard.

(2) In relation to any such application section 97(1) and (3) of the Magistrates' Courts Act 1980 in its application to the Falkland Islands shall apply as they apply in relation to a complaint.

(3) The Senior Magistrate shall not sit as a member of the Summary Court when it is exercising any function in relation to registration of clubs under this Ordinance.

16. On any application or complaint made to the Summary Court by or against a club under Part III of this Ordinance, and on any appeal by a club under section 17 of this Ordinance, the club, if not represented by a legal practitioner, shall be heard by the chairman or secretary, by any member of the committee having the general management of the affairs of the club or by any officer of the club duly authorized.

SCHEDULE 6

PROVISIONS AS TO CLUB RULES

Management of club

1. The affairs of the club, in matters not reserved for the club in general meeting or otherwise for the general body of members, must, under the rules, be managed by one or more elective committees; and one committee must be a general committee, charged with the general management of those affairs in committee not assigned to special committees.

General meetings

2. (1) There must, under the rules, be a general meeting of the club at least once in every year, and fifteen months must not elapse without a general meeting.

(2) The general committee must be capable of summoning a general meeting at any time on reasonable notice.

(3) Any members entitled to attend and vote at a general meeting must be capable of summoning one or requiring one to be summoned at any time on reasonable notice, if a specified number of them join to do so; and the number must not be more than thirty or one-fifth of the total number of members so entitled.

(4) At a general meeting the voting must be confined to members, and all members entitled to use the club premises must be entitled to vote, and must have equal voting rights, except that-

- (a) the rules may exclude from voting, either generally or on particular matters, members below a specified age (not greater than twenty- one), women, if the club is primarily a men's club, and men if the club is primarily a women's club, and
- (b) if the club is primarily a club for persons qualified by service or past service, or by any particular service or past service, in Her Majesty's Forces, the rules may exclude persons not qualified from voting, either generally or on particular matters, and
- (c) if the rules make special provision for family membership or family subscriptions or any similar provision, the rules may exclude from voting, either generally or on particular matters, all or any of the persons taking the benefit of that provision as being members of a person's family, other than that person.

3. (1) Ordinary members must, under the rules, be elected either by the club in general meeting or by an elective committee, or by an elective committee with other members of the club added to it for the purpose; and the name and address of any person proposed for election must, for not less than two days before the election, be prominently displayed in the club premises or principal club premises in a part frequented by the members.

(2) The rules must not make any such provision for the admission of persons to membership otherwise than as ordinary members (or in accordance with the rules required for ordinary members by sub-paragraph (1) of this paragraph) as is likely to result in the number of members so admitted being significant in proportion to the total membership.

Meaning of "elective committee"

4. (1) In this Schedule "elective committee" means, subject to the following provisions of this paragraph, a committee consisting of members of the club who are elected to the committee by the club in accordance with sub-paragraph (2) of this paragraph for a period of not less than one year and not more than five years; and paragraph 2(4) of this Schedule shall apply to the voting as it applies to voting at general meetings.

(2) Elections to the committee must be held annually, and if all the elected members do not go out of office in every year, there must be fixed rules for determining those that are to; and all members entitled to vote at the election and of not less than two years' standing, must be equally capable of being elected (subject only to any provision made for nomination by the club and to any provision prohibiting or restricting re-election) and, if nomination is required, must have equal rights to nominate persons for election.

(3) Except in the case of a committee with less than four members, of a committee concerned with the purchase for the club or with the supply by the club of intoxicating liquor, a committee of which not less than two-thirds of the members are members of the club elected to the committee in accordance with sub-paragraphs (1) and (2) shall be treated as an elective committee.

(4) A sub-committee of an elective committee shall also be treated as an elective committee if its members are appointed by the committee and not less than two-thirds of them (or, in the case of a sub-committee having less than four members, or concerned with the purchase for the club or with the supply by the club of intoxicating liquor, all of them) are members of the committee elected to the committee in accordance with sub-paragraphs (1) and (2) who go out of office in the sub-committee on ceasing to be members of the committee.

(5) For the purposes of this paragraph a person who on a casual vacancy is appointed to fill the place of a member of an elective committee for the remainder of his term and no longer shall, however appointed, be treated as elected in accordance with sub-paragraphs (1) and (2) if the person whose place he fills was so elected or is to be treated as having been so elected.

SCHEDULE 7
CHILDREN'S CERTIFICATES: SUPPLEMENTARY PROVISIONS

[S. 12/Ord. 8/02/w.e.f. 3/6/02.]

1 Applications

(1) The Summary Court shall not entertain an application for a children's certificate unless the applicant has, at least 21 days before the date on which the application is considered by the court, given to the clerk of the court and to the chief police officer notice of his intention to make the application.

(2) Notice under sub-paragraph (1) of this paragraph shall-

- (a) be in writing and be signed by the applicant or his authorised agent, and
- (b) state the situation of the premises where the area to which the application relates is to be found.

(3) If the premises mentioned in sub-paragraph (2)(b) of this paragraph include a bar which is not included in the area to which the application relates, the Summary Court may decline to entertain the application until the applicant has lodged a plan of the premises indicating the area of the premises to which the application relates.

2

(1) If the chief police officer intends to oppose an application for a children's certificate, he must give notice in writing of his intention to do so to the applicant and to the clerk of the court not less than 7 days before the meeting of the Summary Court at which the application is to be considered.

(2) Notice under sub-paragraph (1) of this paragraph shall be in writing and shall specify in general terms the grounds of the opposition.

3 Hearing of application

(1) The applicant shall be entitled to attend at the hearing of his application and to present his application in person or by any other person he may engage to present his application on his behalf.

(2) If the Summary Court decides to refuse an application for a children's certificate, it shall announce its reasons in open court immediately following the announcement of its decision.

4 Conditions

(1) It shall be a condition of the grant of a children's certificate that meals and beverages other than intoxicating liquor are available for sale for consumption in the area to which the certificate relates at all times when the certificate is operational.

(2) The Summary Court may impose such other conditions on the grant of a children's certificate as it thinks fit.

(3) Without prejudice to the generality of sub-paragraph (2) of this paragraph, conditions under that sub-paragraph may restrict the hours during which, or days on which, the certificate is operational.

5 When operational

(1) Subject to any conditions attached by the Summary Court and to sub-paragraph (2) of this paragraph, a children's certificate shall be operational at any time up to nine in the evening.

(2) The Summary Court may, in relation to a children's certificate, approve a later time than nine in the evening as the time when the children's certificate ceases to be operational, and may do so either generally or for particular days or periods.

(3) The Summary Court may only act under sub-paragraph (2) of this paragraph on the application of the appropriate person, but an approval under that provision needs to correspond with the applicant's proposals.

(4) In sub-paragraph (2) of this paragraph, the reference to the appropriate person is-

- (a) in the case of an application with respect to an existing children's certificate, to the holder of the licence for the licensed premises to which the certificate relates; and
- (b) in the case of an application made in conjunction with an application for a children's certificate, to the applicant for the certificate.

6 Duration

Subject to the Summary Court's powers under section 83A, a children's certificate shall remain in force until revoked.

7

(1) Without prejudice to the Summary Court powers under section 83A, that court may of its own motion or on application by the chief police officer, revoke a children's certificate if it is satisfied-

- (a) that the area to which the certificate relates does not constitute an environment in which it is suitable for persons under eighteen to be present, or
- (b) that there has been a serious or persistent failure to comply with one or more of the conditions attached to the certificate.

(2) The Summary Court may only revoke a certificate in exercise of its powers under, and in accordance with the procedure provided for by, section 83A, but the matters mentioned in (a) and (b) of the preceding sub-paragraph of this Schedule shall constitute grounds on which the Summary Court may exercise those powers.

8

If the holder of the licence for the licensed premises to which a children's certificate relates gives-

- (a) to the clerk to the court; and
- (b) to the chief police officer,

at least 14 days notice in writing of a day on which he wishes the certificate to cease to be in force, it shall be treated as revoked on that day.

9

A children's certificate shall be treated as revoked on the day on which the area to which it relates ceases to be comprised in premises for which a licence is in force.

10 Appeals

(1) An applicant for a children's certificate who is aggrieved by a decision of the Summary Court-

- (a) to refuse to grant a certificate; or
- (b) as to the conditions attached to the grant of a certificate;

may appeal to the Magistrate's Court against the decision.

(2) Any applicant for an extension of the time when a children's certificate is operational who is aggrieved by a decision of the Summary Court with respect to his application may appeal to the Magistrate's Court against the decision.

(3) Any holder of a licence who is aggrieved by a decision of the Summary Court under this Schedule revoking a children's certificate relating to the licensed premises may appeal to the Magistrate's Court against the decision.

(4) The judgment of the Magistrate's Court on any appeal under this paragraph shall be final.

ⁱ 1st January 1995

ⁱⁱ 1st January 1995

ⁱⁱⁱ 1st January 1995

^{iv} 1st January 1995