

Statutory Document No. 2014/0231



Licensing Act 1995

LICENSING COURT RULES 2014

Made: 25 July 2014

Coming into Operation: 1 September 2014

The Deemsters makes the following Rules under section 5 of the Licensing Act 1995.

1 Title

These Rules are the Licensing Court Rules 2014.

2 Commencement

These Rules come into operation on 1 September 2014.

3 Interpretation

(1) In these Rules —

“**the Act**” means the Licensing Act 1995;

“**the court**” means the Licensing Court;

“**the fire authority**” means the Department of Home Affairs;

“**notice**” means notice in writing; and

“**party**”, in relation to any proceedings, means —

- (a) the applicant on whose application the proceedings are founded;
- (b) any objector on the application who lodged a notice in accordance with rule 14;
- (c) the Chief Constable; and
- (d) in the case of an application to which rule 13 applies, the fire authority.

(2) Any reference in these Rules to a section (without more) is to that section of the Act.

(3) References in these Rules to a single day will be construed, in relation to the extension of permitted hours by any period on that day, as including references to so much of the following day as falls within that period.

- (4) Where any document is required by these Rules to be served on the Chief Constable, it may be served by delivering it either by hand or by post to Police Headquarters or the offices of the Police Central Alcohol Unit.

4 Evidence

The following provisions of the Summary Jurisdiction Act 1989 apply to proceedings before the court as they apply to proceedings before a court of summary jurisdiction –

- (a) section 59(1) to (6) (attendance of witnesses);
- (b) section 62 (evidence on oath);
- (c) section 63 (note of evidence); and
- (d) section 73 (false statements).

5 Quorum and decisions

- (1) Subject to any provision of these Rules enabling any power of the court to be exercised by the High Bailiff sitting alone, three members of the court will be a quorum.
- (2) Subject to paragraph (3), in the case of an equality of votes the chairman of the court will have a second or casting vote.
- (3) Paragraph (2) does not apply in the case of an application for a new licence and such an application will be refused unless the majority of the members of the court present and voting vote for the grant of the licence.

6 Adjournment, withdrawal of proceedings etc.

- (1) The court may adjourn any proceedings either of its own motion or on the application of any party.
- (2) Any application to the court, and any objection to an application, may be withdrawn by the applicant or objector at the hearing or by any notice lodged in the office of the High Bailiff.
- (3) Where an application or objection is withdrawn otherwise than at the hearing, the applicant or objector will give notice to every other party to the proceedings.

7 Time-limits

The court may in any particular case relax or dispense with any time-limit imposed by these Rules, either unconditionally or subject to compliance with such conditions as it may think fit, if it is satisfied that to do so will not cause injustice to any person concerned.

PART 2

LICENSED PREMISES AND CLUBS

8 Twenty one day notice of certain applications to the court, the police and the public

- (1) This rule applies to an application for —
 - (a) the grant of a licence (otherwise than by way of renewal or under section 13(1) or (2));
 - (b) an order under section 9(4) (variation or removal of condition etc.);
 - (c) the transfer of a licence;
 - (d) the approval of plans, or a variation of plans, under section 11 (provisional grant of licence);
 - (e) the inclusion in a licence of a provision under section 28(1) (music and dancing), or an order under section 28(2) varying such a provision;
 - (f) the permission of the court under section 29(1) (communication between premises) or section 30(1) (alteration of premises);
 - (g) a registration order under section 46(3) (otherwise than by way of renewal);
 - (h) an order under section 48(3) (change of club premises); or
 - (i) an order under section 55(1) (music and dancing), or an order under section 55(2) varying such a provision.
- (2) No application to which this rule applies may be made unless the applicant has —
 - (a) not less than 21 days before the hearing of the application —
 - (i) lodged in the office of the High Bailiff the application along with any documentation pertinent to that application; and
 - (ii) served a copy of the application, and a copy of any documentation pertinent to that application, on the Chief Constable; and
 - (b) not less than 14 days before the hearing of the application, caused a public notice, based on the template set out in the Schedule which has been appropriately amended to reflect the nature of the application, to be published in two newspapers published and circulating in the Island.

9 Twenty one day notice of an application for an occasional licence

- (1) This rule applies to an application for an occasional licence.

- (2) No application for an occasional licence may be made unless the applicant has –
- (a) not less than 21 days before the hearing of the application –
 - (i) lodged in the office of the High Bailiff the application along with any documentation pertinent to that application; and
 - (ii) served a copy of the application, and a copy of any documentation pertinent to that application, on the Chief Constable; and
 - (b) not less than 14 days before the hearing of the application, caused a public notice, based on the template set out in the Schedule which has been appropriately amended to reflect the nature of the application, to be published in one newspaper published and circulating in the Island.

10 Twenty one day notice of certain applications to the court and the police

- (1) This rule applies to an application for –
- (a) the grant of a licence by way of renewal;
 - (b) the approval of a person as a designated official under section 8(3);
 - (c) a licence under section 13(2) (temporary licences);
 - (d) the grant of a club registration order by way of renewal; or
 - (e) the approval of the court to an amendment of club rules under section 47(4).
- (2) No application to which this rule applies may be made unless the applicant has, not less than 21 days before the hearing of the application –
- (a) lodged in the office of the High Bailiff the application along with all documentation pertinent to that application and the appropriate fee; and
 - (b) served a copy of the application, and a copy of all documentation pertinent to that application, on the Chief Constable.

11 Seven day notice of certain applications to the court and the police

- (1) This rule applies to an application for –
- (a) an order confirming a licence granted under section 11;
 - (b) a licence under section 13(1) (temporary licences);
 - (c) a charitable function licence;

- (d) the permission of the court, and the approval of a person as a temporary manager, under section 25 (temporary absence of licensee etc.); or
 - (e) an order under section 53 (private function).
- (2) No application to which this rule applies may be made unless the applicant has, not less than 7 days before the hearing of the application, —
- (a) lodged in the office of the High Bailiff the application along with all documentation pertinent to that application and the appropriate fee; and
 - (b) served a copy of the application, and a copy of all documentation pertinent to that application, on the Chief Constable.

12 Approval of licensee or designated official

- (1) This rule applies to an application for —
- (a) the grant of a licence to an individual (otherwise than by way of renewal or under section 13(1) or (2)); or
 - (b) the approval of a person as a designated official (whether made as part of an application for a licence or under section 8(3)).
- (2) No application to which this rule applies will be made without the leave of the court unless at least three certificates as to the character and qualification of the person concerned have been lodged in the office of the High Bailiff and a copy of these certificates sent to the police in accordance with the appropriate notice period prescribed in rules 8, 9 or 10 and 11.
- (3) Unless the court otherwise determines, the person concerned will appear at the hearing of the application.

13 Deposit of Plans

- (1) This rule applies to an application for —
- (a) the grant of a licence (otherwise than by way of renewal or under section 13(1));
 - (b) an order under section 9(4) (variation or removal of condition etc.) relating to the construction, layout or use of the premises;
 - (c) the approval of plans, or a variation of plans, under section 11 (provisional grant of licence);
 - (d) the permission of the court under section 29(1) (communication between premises) or section 30(1) (alteration of premises);
 - (e) a registration order under section 46(3) (otherwise than by way of renewal); or
 - (f) an order under section 48(3) (change of club premises);

- (2) No application to which this rule applies may be made unless the applicant has, not less than 21 days before the hearing of the application –
- (a) lodged in the office of the High Bailiff;
 - (i) plans of the proposed premises or works;
 - (ii) the plan and description referred to in section 11(5); or
 - (iii) copies of the plans for which approval is sought;as the case may be, and
 - (b) served on the fire authority a copy of those documents and copy of the notice published under rule 8.
- (3) Except in the case of a plan referred to in section 11(5)(a), plans lodged under this rule will –
- (a) be drawn to a scale of not less than 1/50 with figured dimensions;
 - (b) include details of all structural work;
 - (c) identify all areas where liquor is to be supplied or consumed;
 - (d) identify all means of egress from the premises in case of fire; and
 - (e) contain such further details as the High Bailiff may, either generally or in any particular case, direct.

14 Notice of objections

- (1) No person may, without leave of the court, make an objection to an application to which rule 8 applies unless he or she has, not less than 7 days before the date of the hearing, lodged with the office of the High Bailiff a statement in writing of the grounds of his or her objection and served a copy on the applicant or the advocate of the applicant.
- (2) Paragraph (1) does not apply to an objection made by or on behalf of the Chief Constable or the fire authority.

15 Production of agreements

The court may require the applicant for a licence or a registration order –

- (a) to lodge in the office of the High Bailiff any agreement between the applicant and any other person whereby the applicant is required to purchase liquor from that person to be sold in the premises concerned; and
- (b) to give the court such further information with respect to the agreement as it may require.

16 Appearance by company

Where any party to proceedings in the court is a company, it may appear by –

- (a) a director or the secretary of the company; or

- (b) in the case of an applicant, by the manager of the business carried on or to be carried on at the premises concerned.

17 Applications which may be determined administratively by the High Bailiff

The court may consist of the High Bailiff sitting alone without the need for appearances when determining an application for —

- (a) the approval of a person as a designated official under section 8(3);
- (b) the transfer of a licence;
- (c) a licence under section 13(1) (temporary licence pending transfer);
- (d) an occasional licence;
- (e) a charitable function licence;
- (f) the permission of the court, and the approval of a person as a temporary manager, under section 25 (temporary absence of licensee etc.);
- (g) a special permission under section 9 of the Music and Dancing Act 1961;
- (h) an occasional licence under section 10 of that Act; or
- (i) an order under section 53 (private function).

18 Applications which may be heard without appearance

- (1) Subject to paragraph (2), the court may determine —
 - (a) an application falling within rule 17;
 - (b) an application for the grant of a licence by way of renewal; or
 - (c) an application for a registration order by way of renewal;in the absence of the applicant.
- (2) The court may not —
 - (a) refuse an application mentioned in paragraph (1)(b) or (c); or
 - (b) on the grant of such an application, vary such condition or impose any new condition (otherwise than at the request or with the consent of the applicant);without giving the applicant an opportunity to be heard.

PART 3

REVOCATIONS

19 Revocations

The Licensing Court Rules 1996¹ are revoked.

MADE 25 JULY 2014

D C DOYLE

Her Majesty's First Deemster and Clerk of the Rolls

A T K CORLETT

Second Deemster

¹ SD 210/96



SCHEDULE

[rule 8]

PUBLIC NOTICE OF APPLICATION

“NOTICE OF APPLICATION

LICENSING ACT 1995 *or* MUSIC AND DANCING ACT 1961 (*delete as appropriate*)

An application has been made for the grant of a licence/occasional licence/registration order *[as the case may be]* for the sale by retail of liquor for consumption on or off *[as the case may be]* the following premises —

[address or description of premises, with name (if any)]

[In the case of an occasional licence] From *[start time]* to *[end time]* on *[date]*.

Where appropriate [An application has been made for the inclusion in the licence of a provision authorising music to be played and dancing to take place on the premises.] *or as the case may be.*

Objections to this application must be submitted in writing to the office of the High Bailiff, IoM Courts of Justice, Deemsters Walk, Douglas, IM1 3AR, and to the *[name of applicant or advocate]* at the address below, at least 7 days prior to the sitting of the Licensing Court held on *[date]*.

Where plans are lodged under rule 13[Plans have been lodged at the office of the High Bailiff and may be inspected there during office hours.]

[name of applicant or advocate and address]

[date]”

EXPLANATORY NOTE***(This note is not part of the Rules)***

These Rules prescribe the procedure for proceedings in the Licensing Court along with revoking and replacing the Licensing Court Rules 1996 and the Licensing Court (Amendment) Rules 1996.