

Subsidiary Legislation made under s. 51.

LICENSING RULES**(LN. 1961.12.28)***Commencement* **1.1.1962**

Amending enactments	Relevant current provisions	Commencement date
1989/035	Part VII	1.10.1989
1991/200	rr. 2, 9(7)(8), 10A (2), 11, 20, 29 (3)(5) and 30 (3)	31.10.1991
1991/214	rr. 28(4), 33 and 34	21.11.1991
1998/092	Sch. 2	22.10.1998
2015/014	rr. 9(1) & (1A)	5.2.2015

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Title.

1. These rules may be cited as the Licensing Rules.

General penalty.

2. A person who commits an offence against any of the requirements of these rules is, where no special penalty is provided therefor, liable on summary conviction to a fine at level 3 on the standard scale.

PART I.—INTOXICATING LIQUOR LICENCES.

Appointment of licensing authority.

3.(1) The magistrates' court is hereby appointed to be the licensing authority—

(a) for the grant of intoxicating liquor licences under Part II of the Act, other than the following licences—

manufacturers' licences
wholesale wine merchants' licences
full wine merchants' licences
beer merchants' licences
grocers' wine licences
travellers' wine licences
occasional licences.

(b) for the grant of transfers of intoxicating liquor licences under Part IV of the Act, other than transfers of the licences mentioned in paragraph (a).

(2) The magistrates' court shall exercise all the powers conferred upon the Financial and Development Secretary by section 35 of the Act.

Application for licence.

4.(1) All applications for any kind of licence to sell or manufacture intoxicating liquor shall be submitted to the licensing authority in the following form:—

To the Licensing Authority,

Gibraltar.

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I/We hereby apply for the grant to me/us of a licence for a period of months ending the day of 20 , for which purpose the following is a true statement of the several particulars required to be contained in)is my/our application:–

Full name of applicant

Name under which business is or is to be carried on

Business premises for which licence is applied for

* The room in the premises from which intoxicating liquor is to be sold is as follows :–

(Brief description of whereabouts of room in the premises).

Residence of applicant

Full particulars of any share, interest or part in the business or proposed business held or to be held during the period of the licence by any person other than the applicant or applicants

Witness my/our hand at Gibraltar this day of , 20 .

Signed.

** To be completed in the case of an application for a tavern licence.*

(2) Any wilful or negligent misstatement in any application shall be an offence against these rules.

Application for provisional licence.

4A.(1) Where any person has not yet procured from the Financial and Development Secretary a certificate of the fitness of the premises under the provisions of section 11 of the Act, he may apply to the licensing authority for a provisional licence.

(2) An application for a provisional licence shall be in the form of an application for a licence under rule 4 but there shall be endorsed thereon the following “This is an application for a provisional licence”.

(3) An application for a provisional licence shall be treated by the licensing authority as an application for a licence.

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(4) Where the licensing authority has received an application for a provisional licence it shall, if it would have been granted a licence under rule 4 but the fact that there is no certificate of fitness of the premises, inform the applicant in writing, which writing shall be in such form as the authority may deem appropriate and shall be a provisional licence for the purpose of this rule, that subject to the provisions of subrule (5) it will grant a licence.

(5) Where the licensing authority has granted a provisional licence it shall on production of a certificate of fitness from the Financial and Development Secretary and unless facts have come to the notice of the authority since the granting of the provisional licence which would justify it in refusing a licence, grant a licence to the applicant.

Form of licence.

5. Every licence to sell or manufacture intoxicating liquor shall be in the following form—

GOVERNMENT OF GIBRALTAR

Treasury

No.

Gibraltar, , 20 .

is hereby licensed to

in the premises now occupied by him at

* between the hours of and

† In the following room of the said premises—

(set out description of room)

Fee paid £.....

Licensing Authority.

Note. There shall not be sold or exposed for sale in any room licensed for the sale of intoxicating liquor—

- (a) any absinthe; or*
- (b) any brand manufactured in Gibraltar, the strength of which exceeds 30 degrees under the strength of proof by Sykes' hydrometer.*

* *Delete if licence is to manufacture intoxicating liquor.*

† *Delete unless licence is a tavern licence.*

6. *Revoked*

Standards of measure.

7. Except in the case of liquor imported from and bottled outside Gibraltar no measure that is of the standard of the gallon shall be used in the measurements of any intoxicating liquor exposed or offered for sale.

8. *Revoked.*

Permitted hours.

9.(1) Subject to subrule (1A), the permitted hours for the opening of the premises of the holder of a wholesale wine merchant's licence, full wine merchant's licence, beer merchant's licence or grocer's wine licence, shall be from 8am to 9pm on all days.

(1A) The permitted hours for the opening of the premises of the holder of a full wine merchant's licence that operates as a supermarket, shall be from 8am to 10pm on all days if authorised to do so by the licensing authority.

(2) Subject to the provisions of subrules (3), (4A), (5), (6), (7), (7A), (8) and (9) the following shall be the permitted hours for the opening of a tavern or a beer shop

(a) for the sale of intoxicating liquor—

(i) for consumption on the premises from 6 a. m. to 12 p.m. on all days other than Friday: and Saturdays and from 6 a.m. on Fridays and Saturdays to 1 a.m. on Saturdays and Sundays;

(ii) for consumption off the premises from 8 a.m. to 9 p.m. on all days;

(b) for the sale or consumption of any substance, other than intoxicating liquor, which substance such tavern or beer shop is by law permitted to sell, the same hours as for the sale of intoxicating liquor for consumption on the premises.

(3) Notwithstanding the provisions of sub rule (2), intoxicating liquor may be sold in a tavern or beer shop between such other hours on Christmas

Day, New Year's Day or any other specific occasion as the Commissioner of Police may authorize in writing.

(4) In granting any authorization under the provisions of sub-rule (3) the Commissioner of Police may impose such conditions as he may think fit.

(4A) The licensing authority may, in its discretion, in relation to any room subject to any permitted hours under the provisions of this rule on being satisfied—

- (a) that no substantial interference with the reasonable comforts and amenities of persons resident in the neighbourhood of such premises is likely to occur as a result of the grant of an extension of such permitted hours under this subrule; and
- (b) that such room, or a substantial part thereof, is structurally adapted and bona fide used or intended to be used for the sale or supply to persons taking table meals in the room of substantial refreshment to which the sale and supply of intoxicating liquor is ancillary,

grant an extension of the permitted hours, subject to such conditions as it may see fit to impose, either during the currency of the licence of such room, or for such period as it may deem proper, from 1 a.m. to 2 a.m., on Saturdays and Sundays and from 12 p.m. to 1 a.m. on all other days:

Provided always that intoxicating liquor shall not be sold or supplied in such rooms during such extended hours otherwise than to persons taking table meals in such room and for consumption by such a person as ancillary to his meal.

In this subrule "table meal" means a meal eaten by a person seated at a table, or at a counter or other structure which serves the purposes 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.

(5) The licensing authority may, in its discretion, in relation to any room subject to any permitted hours under the provisions of this rule, on being satisfied—

- (a) that no substantial interference with the reasonable comforts and amenities of persons resident in the neighbourhood of the premises in which such room is situated is likely to occur as a result of the grant of an extension of such permitted hours under this subrule; and

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- (b) that such room or a substantial part thereof, is structurally adapted and bona fide used or intended to be used for the purpose of dancing, to which the sale and supply of intoxicating liquor is ancillary,

grant an extension of the permitted hours either during the currency of the licence of such room, or for such periods as it may deem proper, in respect of the room from 12 p.m. to 4 a.m. on any day of the week;

Provided that where the room is part of the premises in respect of which an hotel licence has been granted an extension may be granted in respect of all rooms in such premises in respect of all rooms in such premises in respect of which a licence has been granted notwithstanding that dancing does not take place in all such rooms.

(6) Notwithstanding anything contained elsewhere in this rule an hotel, tavern or beershop may remain open for thirty minutes after the permitted hours for the sale of intoxicating liquor during permitted hours to consume such liquor and such period shall be deemed to be the hours permitted by the licence for the purpose of rule 10. Nothing in this subrule shall permit the sale of intoxicating liquor during such period.

(7) The sale of intoxicating liquor in the room certified by the Minister for Tourism to be the gaming room of the Gibraltar Casino shall be permitted for consumption in that room at any time when gaming is taking place in that room.

(7A) If an extension has been granted under provisions of subrule (4A) or (5) in respect of any room in the Gibraltar Casino, intoxicating liquor may be sold in all rooms in such casino in respect of which a licence to sell intoxicating liquor has been issued during the hours for which such extension has been granted notwithstanding that table meals are not served or that dancing does not take place in such rooms.

(8) Notwithstanding anything contained elsewhere in this rule the Minister for Tourism may, if he considers it expedient in consequence of the arrival or departure of aircraft at the civil air terminal to permit by notice in writing any licensed premises at such terminal to remain open for the sale of intoxicating liquor for such period outside the hours permitted by the licence as may be specified in the notice and such period shall be deemed to be the hours permitted by the licence for the purpose of rule 10.

(9) Where immediately before the coming into force of these Rules there was in force in respect of any licenced premises an extension granted because such premises were habitually used as a restaurant, such extension shall continue in force for the period for which it was granted until it is revoked by the licensing authority.

Restrictions on residence and employment on licensed premises.

10. No holder of any licence under this part shall –
- (a) permit any person, except anyone lawfully lodging therein or the family or servants of the licensee, to remain on the licensed premises except during the hours permitted by his licence; or
 - (b) employ any person under the age of sixteen years in any bar or in serving or assisting to serve intoxicating liquors.

Power to exclude drunkards from licenced premises.

10A.(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 licence for an hotel, a tavern or beershop may refuse to admit to, or may expel from, the licensed premises any person who is drunken, violent, quarrelsome or disorderly, or whose presence in the licensed premises would subject the licence holder to a penalty under these rules or section 265 of the Criminal Offences Act.

(2) A person liable to be expelled from licensed premises under this rule, who, when required by the holder of the licence of his agent or servant or any police officer to leave the premises, fails to do so, is guilty of an offence and is liable on summary conviction to a fine at level 1 on the standard scale.

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

PART II.–LICENCED BROKERS AND AUCTIONEERS.

Application by broker.

11. Every person applying to be licensed as a broker shall produce a certificate signed by six merchants who shall be residents of Gibraltar stating that he is a fit and proper person to act as a broker.

Declaration by broker.

12. Every person licensed as a broker shall make a declaration in the following form:–

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I, _____, do declare that I will truly and faithfully exercise and perform the office and employment of a broker between party and party, in all things appertaining to the duty of such office and employment, without fraud or collusion, to the best of my skill and knowledge, and in accordance with the rules for licensed brokers made under the Licensing and Fees Act.

Scope of broker's business.

13. No licensed broker shall transact any commercial business whatever on his own account, either directly or indirectly, by order or consignment, or by buying or selling goods for his own benefit or shall make any profit further than is hereinafter authorised in buying or selling goods for others but shall confine himself to acting simply as a broker between party and party.

Broker's fees.

14.(1) The fee payable to a licensed broker in respect of his services shall be charged according to the following scale and no licensed broker shall receive any sum in excess of the fee prescribed for in such scale,—

- (a) on charter parties and the sale of vessels – 2 per cent on first £500 and 1 per cent thereafter;
- (b) on letting houses – 2½ per cent;
- (c) on discount bills –½ per cent ;
- (d) on negotiating bills – 2 per mil;
- (e) on transferring mortgages –½ per cent ;
- (f) on any other transaction – 1 per cent.

(2) The whole fee payable to a licensed broker in respect of a transaction shall be paid by the person by whom he has been employed.

Broker's books.

15. Every licensed broker shall keep a broker's book in which he shall enter daily all contracts which he shall make each day. Such entry shall specify the names of the parties interested in such contracts and, in a case where a bought and sold note is made, an exact copy thereof shall be made in such books.

Financial and Development Secretary to have right to inspect book.

16. Every licensed broker shall produce his broker's book for inspection and examination by the Financial and Development Secretary at any time that the Financial and Development Secretary may demand the same.

Broker's book to be available for inspection for three months after expiration of the licence.

17. Any person who has been licensed as a broker and whose licence has not been renewed or who has not taken out a new licence shall be required to keep his broker's book and produce the same to the Financial and Development Secretary for inspection and examination by the Financial and Development Secretary at any time that the same may be demanded by the Financial and Development Secretary within three months of the expiration of the licence.

Scale of charges by auctioneers.

18. The following is the maximum rate of remuneration which an auctioneer shall be entitled to charge or receive by way of remuneration for his services as auctioneer:—

For the sale of immovable property :—

when the amount realized does not exceed £500 2 per cent.

When the amount realized exceeds £500 2 per cent on the first £500 and 1 per cent thereafter.

For the sale of livestock 5 per cent.

For the sale of general goods 5 per cent on the first £500, then 2½ per cent from £500 to £1,000 and 1 per cent thereafter:

Provided that—

- (a) when the sale is subject to a reserve and such price is not attained the auctioneer may charge a commission not exceeding a sum calculated on the reserve price at half the rate hereinbefore provided for the class of property or goods to be sold;
- (b) the foregoing amounts shall constitute the full and sole charges of such person for and upon such sales at auction.

PART III.—LICENSED TOBACCONISTS.

19-22. *Revoked.*

PART IV.—EATING HOUSES.

23-27. *Revoked.*

PART V.—PORTERS.

Porters to be licensed.

28.(1) Every person employed or offering himself for hire, to embark from or land upon the wharf any provisions, goods, wares or merchandise whatever (unless he be a mariner belonging to the vessel or boat from or to which any of such articles are being or have been removed), and any person employed or offering himself for hire, to house merchants' goods, or to carry from house to house, or from place to place, any provisions, unless he be a market-boy, or any goods, wares or merchandise whatsoever, shall be deemed to be a porter, and shall be licensed as such.

(2) Porters' licences may be made subject to such conditions governing the conduct of porters and the area in which they may exercise their calling as the licensing authority may think fit.

(3) The licensing authority may cancel a porter's licence upon conviction for any offence under these rules or upon breach of any condition of such licence or if the licensing authority considers the porter unsuitable to be a porter.

(4) The Gibraltar Tourism Agency is hereby appointed to be the Licensing Authority in respect of porters and shall exercise all the powers conferred upon the Financial and Development Secretary by section 35 of the Act in respect thereof.

Licensed porters to wear badges.

29.(1) Every licensed porter shall, while exercising his calling as such, wear on the left upper arm in such a position as to be entirely visible, a badge, hereinafter in this Part referred to as a porter's badge.

(2) Porter's badges shall be distinguished from each other in such manner as the licensing authority may direct according to the area for which the porters are licensed.

(3) Porter's badges shall be and remain the property of the Government and shall be issued by the licensing authority upon payment of a deposit of £1.

- (4) The deposit paid for the issue of a porter's badge shall be forfeited—
- (a) if the badge is not returned to the licensing authority in good condition, fair wear and tear excepted, within seven days of the expiry of the licence in respect of which the badge was issued, unless such licence has been renewed; or
 - (b) the badge is lost or damaged.

(5) The licensing authority, or any police or revenue officer, may at any time demand that a porter's badge which has become illegible or been defaced shall be renewed, and in such case, unless it appears to the licensing authority that the badge has become illegible or defaced by fair wear and tear only, the licensee shall be required to pay a further £1 deposit in respect of such replacement.

Licensed porter to produce licence.

30.(1) Every licensed porter shall produce his licence when required to do so by a police officer or a revenue officer.

(2) Every licence issued by the licensing authority shall bear endorsed thereon the number of the badge issued.

(3) A licensed porter who wears a porter's badge other than that recorded on his licence or who fails to produce his licence when required to do so by a police officer or a revenue officer is guilty of an offence and is liable on summary conviction to a fine at level 1 on the standard scale.

Offence for unauthorized person to wear porter's badge.

31. An unauthorized person who wears a porter's badge is guilty of an offence against these rules, and for a second or any subsequent offence shall, in addition to any penalty that may be imposed, be disqualified for holding a porter's licence for a period not exceeding six months.

Licensed porters shall carry scale of charges.

32. Every licensed porter shall, while exercising his calling as such, carry with him in a form approved by the licensing authority a printed copy of the prescribed scale of charges and shall produce such printed copy when required by any person who may engage his services or when required by a police officer or revenue officer so to do.

Load to be carried not to exceed 150 lbs.

33. *Revoked.*

Charges for portorage.

34. *Revoked.*

PART VI.—BAKERS AND BAKEHOUSES.

Bakers to be licensed.

35. Every person making bread of ground wheat, or other grain for sale, whether by himself or another, shall be deemed to be a baker, and shall be licensed as such.

Premises to be licensed.

36. No licensed baker shall make or bake bread in any premises not licensed for the purpose.

Bread to be sold by weight.

37.(1) All bread sold in Gibraltar shall be sold by bakers or sellers of bread respectively by weight :

Provided that nothing in these rules contained shall extend or be construed to extend to prevent or hinder any such baker or seller of bread from selling bread usually sold under the denomination of French or fancy bread without previously weighing the same.

(2) Bakers or sellers of bread shall use avoirdupois weight of sixteen ounces to the pound, and the several graduations of the same for any less quantity than a pound.

(3) Every baker or seller of bread shall cause to be fixed in some conspicuous part of his shop on or near the counter a beam and scales with proper weights, or other sufficient weighing instrument in order that all bread there sold may at the time of sale be weighed, whether required by the purchaser or not, in the presence of the purchaser, except as aforesaid.

(4) Every baker or seller of bread and every journeyman, servant or other person employed by such baker or seller of bread who shall convey or carry out bread for sale shall be provided with and shall constantly carry a beam and scales with proper weights or other sufficient weighing instrument in order that all bread sold by any such baker or seller of bread, or by his journeyman, servant or other person may at the time of sale be weighed, whether required by the purchaser or not, in the presence of the purchaser, except as aforesaid.

Certain loaves to be of fixed weight.

38. English loaves (Restas), Coburg loaves (Coronas) and Moorish loaves (Molletas) shall not be sold or offered for sale in Gibraltar except in loaves of 14 ounces or 28 ounces.

Weights to be of imperial Standards.

39. No licensed baker shall use, or suffer to be used, in the weighing or selling of bread or flour, any weight or measures that are not of the Imperial Standards.

Penalty for having unwholesome ingredients.

40. No licensed baker shall sell or offer for sale or have in his licensed premises any bread containing unwholesome ingredients, or made of unwholesome flour, nor shall have in his house or premises any unwholesome ingredients or mixtures or unwholesome flour, which may be used for the purpose of making or being mixed with bread.

Premises and flour may be inspected.

41. No licensed baker or person in his employ shall refuse to permit the Superintendent of the Markets, or any police officer or revenue officer from entering the licensed premises and examining and ascertaining the quality of his flour, and the weight of his bread, or offer any obstruction to any such officer in carrying out such duty.

Liability of unlicensed baker.

42. A person, other than a licensed baker, who sells bread in any premises, is liable to the same penalties in the cases of short weight or bad quality as if he were a licensed baker.

PART VII.—LICENSED GUIDES.

43 - 50. *Revoked*
