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LICENSING (COMBATING DRUG ABUSE) ACT, 1997

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Acts Referred to

Companies Act, 1990	1990, No. 33
Courts (No. 2) Act, 1986	1986, No. 26
Criminal Justice Act, 1994	1994, No. 15
Intoxicating Liquor Act, 1988	1988, No. 16
Licensing Act, 1872	1872, c. 94
Licensing Acts, 1833 to 1995	
Misuse of Drugs Act, 1977	1977, No. 12
Public Dance Halls Act, 1935	1935, No. 2
Public Health Acts Amendment Act, 1890	1890, c. 59



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LICENSING (COMBATING DRUG ABUSE) ACT, 1997

AN ACT TO MAKE PROVISION FOR MEASURES TO COMBAT DRUG ABUSE IN PLACES USED FOR PUBLIC DANCING, LICENSED PREMISES AND OTHER PLACES OF ENTERTAINMENT AND TO PROVIDE THE GARDA SÍOCHÁNA WITH POWERS TO PREVENT DRUG ABUSE AT UNLICENSED DANCES AND FOR THOSE PURPOSES TO AMEND THE LICENSING ACTS, 1833 TO 1995, SECTION 51 OF THE PUBLIC HEALTH ACTS AMENDMENT ACT, 1890, AND THE PUBLIC DANCE HALLS ACT, 1935, AND TO PROVIDE FOR CONNECTED MATTERS. [21st May, 1997]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.—(1) In this Act—

Interpretation.

“the Act of 1890” means the Public Health Acts Amendment Act, 1890;

“the Act of 1935” means the Public Dance Halls Act, 1935;

“the Act of 1977” means the Misuse of Drugs Act, 1977;

“controlled drug” has the same meaning as in section 2 of the Act of 1977;

“drug trafficking offence” has the same meaning as in section 3 (1) of the Criminal Justice Act, 1994;

“exempt person”, in relation to an unlicensed dance, means the occupier of the place where the unlicensed dance is taking place or is due to take place, any member of the occupier’s family, any employee or agent of the occupier and any person whose home is situated in the place where the unlicensed dance is taking place or is due to take place;

“intoxicating liquor licence” means a licence for the sale of intoxicating liquor by retail whether granted on production or without production of a certificate of the Circuit Court or the District Court;

“the Licensing Acts” means the Licensing Acts, 1833 to 1995;

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“Minister” means the Minister for Justice;

“music” includes sounds wholly or predominantly characterised by the emission of a succession of repetitive beats;

“place” has the same meaning as in section 1 of the Act of 1935 as amended by *section 5* of this Act, and for the purposes of section 51 of the Act of 1890 includes a house, room, garden or other place;

“public dancing licence” has the same meaning as in section 2 of the Act of 1935;

“public music and singing licence” means any licence under section 51 of the Act of 1890;

“sound equipment” means equipment designed or adapted for amplifying music and any equipment suitable for use with such equipment;

“unlicensed dance” means a gathering of persons in any place which is open to the public and for which a public dancing licence is not in force, and which gathering a member of the Garda Síochána not below the rank of superintendent reasonably believes—

- (a) the primary purpose of which is to entitle the persons attending to dance, and at which music is played (with or without intermissions), and
- (b) will be an occasion for the sale, supply or distribution of any controlled drug,

and for this purpose such a gathering continues during intermissions in the music.

(2) In *sections 3* and *4* and *section 21* (in so far as it relates to a public dancing licence or a public music and singing licence) “licensing area” has the same meaning as in section 1 of the Act of 1935.

(3) In this Act—

- (a) a reference to any enactment shall, unless the context otherwise requires, be construed as a reference to that enactment as amended or extended by or under any subsequent enactment including this Act,
- (b) a reference to a section is a reference to a section of this Act unless it is indicated that reference to some other enactment is intended,
- (c) a reference to a subsection, paragraph or subparagraph is a reference to the subsection, paragraph or subparagraph of the provision in which the reference occurs unless it is indicated that reference to some other provision is intended.

Disqualification for ever from obtaining intoxicating liquor, public dancing or public music and singing licence on conviction for drugs offence.

2.—Any person who has been convicted of a drug trafficking offence shall be disqualified for ever from holding any intoxicating liquor licence, any public dancing licence or any public music and singing licence where the person is not the holder of any such licence.

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3.—(1) Where a person who is the holder of a public dancing licence or a public music and singing licence is convicted of a drug trafficking offence or of an offence under section 19 (1) (g) of the Act of 1977, a member of the Garda Síochána not below the rank of inspector may, notwithstanding any penalty imposed on the person, apply to the District Court to have the licence revoked.

Revocation of public dancing or public music and singing licence on conviction for drugs offence and disqualification for ever from holding such licence.

(2) Upon an application under *subsection (1)*, a judge of the District Court, where he or she is satisfied of the conviction of the licence-holder for a drug trafficking offence or an offence under section 19 (1) (g) of the Act of 1977, shall, unless the judge is of the opinion that there is good reason for not doing so, order that the licence be immediately revoked.

(3) Where a licence is revoked under this section, the person to whom the licence had been granted shall be disqualified for ever from holding a public dancing licence or a public music and singing licence, as appropriate.

(4) Where a licence is revoked under this section and the person to whom the licence had been granted was the owner of the place in respect of which the licence applied, that place shall not again have such licence attached to it.

(5) Where a licence is revoked under this section and the holder of the licence was not the owner of the place in respect of which the licence applied, that place shall not again have such licence attached to it unless—

(a) the offence in respect of which the holder of the licence was convicted took place elsewhere than in the place to which the licence applied,

or

(b) the offence in respect of which the holder of the licence was convicted took place in the place to which the licence applied, but the court is satisfied, on application by the owner, that the owner did not know and had no reason to suspect that the holder would use the place in such a way that would give rise to such a conviction.

(6) Any application under *subsection (1)* or *(5)* may be made at any time to the District Court for the licensing area in which the place to which the licence relates is situate.

4.—(1) Subject to *subsection (2)*, where, upon an application by a member of the Garda Síochána not below the rank of inspector, a judge of the District Court is satisfied that a person who is the holder of a public dancing licence or a public music and singing licence permits or suffers the use of the place in respect of which the licence was granted for the sale, supply or distribution of any controlled drug or did not exercise control which was reasonable in all the circumstances over the place to prevent such sale, supply or distribution, the judge shall order that the licence be immediately revoked.

Revocation of public dancing licence or public music and singing licence for allowing licensed premises to be used for sale, etc., of controlled drugs and disqualification for 5 years from holding either such licence.

(2) An application under *subsection (1)* shall not be made on the ground that the licence-holder did not exercise control which was

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- (a) advised the licence-holder that he or she has a reasonable suspicion that there was such sale, supply or distribution at the place,
- (b) warned the licence-holder to take whatever action was necessary to prevent such sale, supply or distribution, and
- (c) given the licence-holder a reasonable period of time, being not less than 4 weeks from the date of the warning, to enable the licence-holder to take whatever action was necessary to prevent such sale, supply or distribution.

(3) Where a licence is revoked under this section, the person to whom the licence had been granted shall be disqualified from holding such a licence for a period of 5 years from the date of the order of revocation and the place in respect of which the licence applied shall not have a public dancing licence or a public music and singing licence, as the case may be, granted to it for a period of 5 years from the date of such order.

(4) Where a licence is revoked under this section and the person to whom the licence had been granted was not the owner of the place in respect of which the licence applied, the provisions of *subsection (3)* relating to such place shall not apply where, on application to the court by the owner, the court is satisfied that the owner did not know and had no reason to suspect that the holder permitted or suffered the use of, or did not exercise control over, the place as referred to in *subsection (1)*.

(5) Any application under *subsection (1)* or *(4)* may be made at any time to the District Court for the licensing area in which the place to which the licence relates is situate.

Amendment of section 1 of Act of 1935 (Definitions).

5.—Section 1 of the Act of 1935 is hereby amended by the substitution for the definition of “place” of the following definitions:

“‘controlled drug’ has the same meaning as in section 2 of the Misuse of Drugs Act, 1977;

‘place’ means a building (including part of a building), yard, garden or other place, whether enclosed or not enclosed and whether roofed or not roofed and whether the enclosure (if any) and the roofing (if any) are permanent or temporary;”.

Amendment of section 2 (2) of Act of 1935 (Application for and grant of public dancing licences).

6.—Subsection (2) of section 2 of the Act of 1935 is hereby amended by the insertion of the following paragraph after paragraph (g):

“(h) the arrangements, where appropriate, that have been made to ensure that persons entering or making use of such place are not in possession of any controlled drug and that the place is not used for the sale, supply or distribution of any controlled drug.”.

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7.—The Act of 1935 is hereby amended by the substitution for section 4 of the following section:

Insertion of conditions and restrictions in public dancing licences.

“Insertion of conditions and restrictions in public dancing licences.

4.—A judge of the District Court in granting a public dancing licence—

(a) may insert therein such conditions and restrictions as the judge thinks proper, and

(b) in particular (without prejudice to the generality of the foregoing power)—

(i) may insert in such licence conditions limiting the days on which and the hours during which the place to which the licence relates may be used for public dancing, and

(ii) shall, where the judge considers it appropriate to do so, insert a condition that the person to whom the licence is being granted shall make all reasonable arrangements to ensure that persons entering or making use of the place are not in possession of any controlled drug and that the place is not used for the sale, supply or distribution of any controlled drug.”.

8.—Section 9 of the Act of 1935 is hereby amended—

Amendment of section 9 of Act of 1935 (Appeals in respect of applications for public dancing licences).

(a) by the substitution in paragraph (c) for “such licence.” of “such licence, and”, and

(b) the insertion after paragraph (c) of the following paragraph:

“(d) by the person whose licence was revoked following application under *section 3, 4, or 21* of the *Licensing (Combating Drug Abuse) Act, 1997*, or who unsuccessfully applied pursuant to *section 3 (5), 4 (4) or 21 (4)* of the said Act.”.

9.—The Act of 1935 is hereby amended by the substitution for section 10 of the following section:

Use of unlicensed place for public dancing.

“Use of unlicensed place for public dancing.

10.—(1) No place, whether licensed or not licensed for the sale of intoxicating liquor, shall be used for public dancing unless a public dancing licence is in force in respect of the place.

(2) If any place is used for public dancing in contravention of this section, the person who organised the public dance and the owner of such place shall be guilty of an offence and shall be liable—

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(a) on summary conviction to a fine not exceeding £1,500 or to imprisonment for a term not exceeding 12 months, or both, or

(b) on conviction on indictment to a fine not exceeding £10,000 or to imprisonment for a term not exceeding 3 years, or both.

(3) In a prosecution for an offence under this section it shall be a defence for the owner to prove that he or she had no knowledge that his or her place was to be used for public dancing in contravention of this section.”.

Contravention of public dancing licence.

10.—The Act of 1935 is hereby amended by the substitution for section 11 of the following section:

“Contravention of public dancing licence.

11.—(1) Whenever any place in respect of which a public dancing licence is for the time being in force is used for public dancing by a person other than the licensee thereunder or is used for public dancing in contravention of or without due compliance with the conditions and restrictions contained in such licence, the licensee under such licence shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,500.

(2) Whenever any person is convicted of an offence under this section the judge of the District Court by whom such person is so convicted—

(a) may, in any case, and

(b) shall, where the condition contravened relates to reasonable arrangements not having been made to ensure that persons entering or making use of the place were not in possession of any controlled drug and that the place was not used for the sale, supply or distribution of any controlled drug,

in addition to or in lieu of imposing a fine, revoke the public dancing licence relating to the place in respect of which such offence was committed.”.

Amendment of section 51 of Act of 1890.

11.—Section 51 of the Act of 1890 is hereby amended—

(a) in subsection 2, by the insertion of the following after “conditions”:

“, which shall, where the court considers it appropriate to do so, include a condition that the person to whom the licence is being granted make all reasonable arrangements to ensure that persons entering or making use of such house, room, garden or place are not in possession

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of any controlled drug (within the meaning of section 2 S.11 of the Misuse of Drugs Act, 1977) and that the house, room, garden or place is not used for the sale, supply or distribution of any controlled drug.”.

(b) by the substitution for subsection 5 of the following subsections:

“5. If any house, room, garden or place is used for any of the purposes aforesaid without a licence under this section, the person who organised the singing, music or other public entertainment, as referred to in subsection 1, and the owner of such house, room, garden or place shall be guilty of an offence and shall be liable—

(a) on summary conviction to a fine not exceeding £1,500 or to imprisonment for a term not exceeding 12 months, or both, or

(b) on conviction on indictment to a fine not exceeding £10,000 or to imprisonment for a term not exceeding 3 years, or both.

5A. In a prosecution for an offence under this section it shall be a defence for the owner to prove that he or she had no knowledge that his or her house, room, garden or place was to be used for any of the purposes aforesaid without a licence.”,

and

(c) the substitution for subsection 9 of the following subsections:

“9. In case of any breach or disregard of any of the terms or conditions upon or subject to which the licence was granted, the holder thereof shall be liable on summary conviction to a fine not exceeding £1,500.

9A. Whenever any person is convicted of an offence under subsection 9 the court by whom such person is so convicted—

(a) may, in any case, and

(b) shall, where the condition contravened relates to reasonable arrangements not having been made to ensure that persons entering or making use of the place were not in possession of any controlled drug and that the place was not used for the sale, supply or distribution of any controlled drug,

in addition to or in lieu of imposing a fine, revoke the public music and singing licence relating to the place in respect of which such offence was committed.”.

12.—(1) Where a member of the Garda Síochána not below the rank of superintendent reasonably believes that persons—

(a) are making preparation for the holding of an unlicensed dance,

Powers to remove persons preparing for or certain persons at an unlicensed dance.

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(b) who are present at an unlicensed dance which is in progress, prepared or organised that dance, or

(c) are using the sound equipment at an unlicensed dance,

he or she may give a direction that those persons and any other persons who come to prepare for or organise the dance are to leave the place and remove any sound equipment or other property which they have with them at that place.

(2) A direction under *subsection (1)* may be communicated to the persons referred to in that subsection by any member of the Garda Síochána at the scene.

(3) Persons shall be treated as having had a direction under *subsection (1)* communicated to them if reasonable steps have been taken to bring it to their attention.

(4) A direction under *subsection (1)* does not apply to an exempt person.

(5) A person knowing that a direction has been given which applies to him or her who—

(a) fails to leave the place as soon as reasonably practicable, or

(b) having left again enters the place within a period of 7 days beginning with the day on which the direction was given,

shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,500 or to imprisonment for a period not exceeding 3 months, or both.

(6) In a prosecution for an offence under this section it is a defence for the accused to show that he or she had a reasonable excuse or had lawful authority for failing to leave the place as soon as reasonably practicable or, as the case may be, for again entering the place.

(7) Where a member of the Garda Síochána finds any person committing an offence under this section, the member may arrest such person without warrant.

Powers to stop persons proceeding to unlicensed dances.

13.—(1) If a member of the Garda Síochána reasonably believes that a person is on his or her way to an unlicensed dance in respect of which a direction under *section 12 (1)* is in force, the member may, subject to *subsections (2) and (3)*—

(a) stop that person, and

(b) direct him or her not to proceed in the direction of the unlicensed dance.

(2) The power conferred by *subsection (1)* may only be exercised at a place within 2 miles of the place where the unlicensed dance is being held or is due to be held but this restriction does not apply where the dance is being held, or is due to be held, on an offshore island.

(3) No direction may be given under *subsection (1)* to an exempt person.

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(4) If a person knowing that a direction under *subsection (1)* has been given to him or her fails to comply with that direction, he or she shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,500 or to imprisonment for a period not exceeding 3 months, or both. S.13

(5) Where a member of the Garda Síochána finds any person committing an offence under this section, the member may arrest such person without warrant.

14.—(1) Any member of the Garda Síochána whether in uniform or not may enter without a warrant any place in respect of which a public dancing licence is not in force at any time while such place is being used for public dancing or at any other reasonable time and there make such inspection, examination and inquiry as he or she shall think proper for the prevention or detection of a drug trafficking offence or for the giving of a direction under *section 12*. Powers of entry and seizure.

(2) Every person who prevents or attempts to prevent a member of the Garda Síochána from exercising, or obstructs or attempts to obstruct any such member in the exercise of, the power vested in such member by virtue of *subsection (1)*, shall be guilty of an offence and shall be liable on summary conviction thereof to a fine not exceeding £1,000.

(3) If a direction has been given under *section 12* and a member of the Garda Síochána reasonably suspects that any person to whom the direction applies has, without reasonable excuse, failed to remove from the place concerned any sound equipment, which appears to the member to belong to that person or to be in his or her possession or under his or her control, the member may seize and remove that sound equipment.

15.—(1) Where a person is convicted of an offence under *section 12* in relation to an unlicensed dance and the court is satisfied that any sound equipment which has been seized from him or her under *section 14*, or which was in his or her possession or under his or her control at the relevant time, has been used at the unlicensed dance, the court may make an order for forfeiture under this subsection in respect of that property. Powers of court to forfeit sound equipment.

(2) The court may make an order under *subsection (1)* whether or not it also deals with the offender in respect of the offence in any other way and without regard to any restrictions on forfeiture in any enactment.

(3) In considering whether to make an order under *subsection (1)* in respect of any property, a court shall have regard—

(a) to the value of the property, and

(b) to the likely financial and other effects on the offender of the making of the order.

(4) An order under *subsection (1)* shall operate to deprive the offender of his or her rights, if any, in the property to which it relates, and the property shall (if not already in their possession) be taken into the possession of the Garda Síochána.

(5) Subject to the provisions of this section, where any property has been forfeited under *subsection (1)*, a judge of the District Court

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may, on application by a claimant of the property, other than the offender from whom it was forfeited under *subsection (1)*, make an order for delivery of the property to the applicant if it appears to the court that he or she is the owner of the property.

(6) No application shall be made under *subsection (5)* by any claimant of the property after the expiration of 6 months from the date on which an order under *subsection (1)* was made in respect of the property.

(7) No such application shall succeed unless the claimant satisfies the court either that he or she had not consented to the offender having possession of the property or that he or she did not know, and had no reason to suspect, that the property was likely to be used at a gathering to which *section 12* applies.

(8) An order under *subsection (5)* shall not affect the right of any person to take, within the period of 6 months from the date of an order under that subsection, proceedings for the recovery of the property from the person in possession of it in pursuance of the order, but on the expiration of that period the right shall cease.

(9) The Minister may make regulations for the disposal of property, and for the application of the proceeds of sale of property, forfeited under *subsection (1)* where no application by a claimant of the property under *subsection (5)* has been made within the period specified in *subsection (6)* or no such application has succeeded.

(10) Every regulation made by the Minister under this section shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation is passed by either such House within the next 21 days on which the House has sat after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

(11) In this section “relevant time” in relation to a person convicted of an offence under *section 12* means the time of his or her arrest for the offence or of the issue of a summons in respect of it.

Retention of seized sound equipment.

16.—(1) Any sound equipment which has been seized and removed by a member of the Garda Síochána under *section 14 (3)* may be retained until the conclusion of proceedings against the person from whom it was seized for an offence under *section 12*.

(2) In this section, “conclusion of proceedings” against the person from whom sound equipment was seized means—

- (a) his or her being sentenced or otherwise dealt with for the offence or his or her acquittal,
- (b) the discontinuance of the proceedings, or
- (c) the decision not to prosecute him or her.

Forfeiture of intoxicating liquor licence on conviction for drugs offence and disqualification for ever from holding such licence.

17.—(1) Where a person who is the holder of an intoxicating liquor licence is convicted of a drug trafficking offence or of an offence under *section 19 (1) (g)* of the Act of 1977, a member of the Garda Síochána not below the rank of inspector may, notwithstanding any penalty imposed on the person, apply to the District Court to have the licence forfeited.

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(2) Upon an application under *subsection (1)*, a judge of the District Court, where he or she is satisfied of the conviction of the licence-holder for a drug trafficking offence or an offence under section 19 (1) (g) of the Act of 1977, shall, unless the judge is of the opinion that there is good reason for not doing so, order that the licence be immediately forfeited. S.17

(3) Any person whose intoxicating liquor licence is forfeited under this section shall be disqualified for ever from holding any intoxicating liquor licence.

(4) Where an intoxicating liquor licence is forfeited under this section and the person to whom the licence had been granted was the owner of the premises in respect of which the licence applied, that premises shall not again have an intoxicating liquor licence attached to it.

(5) Where a licence is forfeited under this section and the holder of the licence was not the owner of the premises in respect of which the licence applied, that premises shall not again have such licence attached to it unless—

- (a) the offence in respect of which the holder of the licence was convicted took place elsewhere than on the premises to which the licence applied, or
- (b) the offence in respect of which the holder of the licence was convicted took place on the premises to which the licence applied, but the court is satisfied, on application by the owner, that the owner did not know and had no reason to suspect that the holder would use the premises in such a way that would give rise to such a conviction.

(6) Any application under *subsection (1)* or (5) may be made at any time to the District Court for the licensing area in which the premises to which the licence relates is situate.

18.—(1) Subject to *subsection (2)*, where, upon an application by a member of the Garda Síochána not below the rank of inspector, a judge of the District Court is satisfied that a person who is the holder of an intoxicating liquor licence permits or suffers the use of the premises to which the licence attaches for the sale, supply or distribution of any controlled drug or did not exercise control which was reasonable in all the circumstances over the premises to prevent such sale, supply or distribution, the judge shall order that the licence be immediately suspended.

Suspension of intoxicating liquor licence for allowing licensed premises to be used for sale, etc., of controlled drugs and disqualification from holding such licence, etc.

(2) An application under *subsection (1)* shall not be made on the ground that the licence-holder did not exercise control which was reasonable in all the circumstances over the premises to prevent the sale, supply or distribution of any controlled drug, unless a member of the Garda Síochána has previously—

- (a) advised the licence-holder that he or she has a reasonable suspicion that there was such sale, supply or distribution on the premises,
- (b) warned the licence-holder to take whatever action was necessary to prevent such sale, supply or distribution, and

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(c) given the licence-holder a reasonable period of time, being not less than 4 weeks from the date of the warning, to enable the licence-holder to take whatever action was necessary to prevent such sale, supply or distribution.

(3) Where an intoxicating liquor licence is suspended under this section, it shall not be renewed until the annual licensing district court of the fourth year following the date of the suspension.

(4) During the period of suspension of an intoxicating liquor licence, that licence shall, for all purposes of the Licensing Acts, be treated as if it had been forfeited.

(5) Any person whose intoxicating liquor licence is suspended under this section shall be disqualified for the period of the suspension from holding any intoxicating liquor licence.

(6) Where an intoxicating liquor licence is suspended under this section, the premises to which the licence attached shall not again have any intoxicating liquor licence granted in respect of those premises before the annual licensing district court of the fourth year following the date of the suspension.

(7) Where a licence is suspended under this section and the person to whom the licence had been granted was not the owner of the premises in respect of which the licence applied, the provisions of *subsection (6)* relating to such premises shall not apply where, on application to the court by the owner, the court is satisfied that the owner did not know and had no reason to suspect that the holder permitted or suffered the use of, or did not exercise control over, the premises as referred to in *subsection (1)*.

(8) Any application under *subsection (1)* or *(7)* may be made at any time to the District Court for the licensing area in which the premises to which the licence relates is situate.

Amendment of section 4 of Courts (No. 2) Act, 1986 (Grant of renewal of intoxicating liquor licences without court certificates).

19.—Section 4 of the Courts (No. 2) Act, 1986, is hereby amended—

(a) in subsection (2), by the insertion after “preceding year” of “or of a licence which has been suspended pursuant to an order under *section 18 (1)* of the *Licensing (Combating Drug Abuse) Act, 1997*”, and the said subsection, as so amended, is set out in the Table to this section, and

(b) in subsection (11), by the insertion after paragraph (d) (inserted by section 18 of the Intoxicating Liquor Act, 1988) of the following paragraph:

“(e) that the licence has been suspended pursuant to an order under *section 18 (1)* of the *Licensing (Combating Drug Abuse) Act, 1997*.”.

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(2) Subject to subsection (5) of this section, where a renewal is required of a licence for premises which have been licensed in the immediately preceding year or of a licence which has been suspended pursuant to an order under *section 18 (1)* of the *Licensing (Combating Drug Abuse) Act, 1997*, it shall not be necessary to produce a certificate of the District Court to an officer of the Revenue Commissioners empowered to grant a renewal of such a licence.

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20.—(1) In addition and without prejudice to any right of appeal for the time being existing under any other enactment, an appeal shall lie to the Circuit Court—

Appeal against forfeiture or suspension of intoxicating liquor licence.

- (a) by a person whose licence is forfeited under *section 17* or *21*,
- (b) by a person whose licence is suspended under *section 18*, or
- (c) by a person who unsuccessfully applied pursuant to *section 17 (5)* or *18 (7)*.

(2) Section 53 of the Licensing Act, 1872 (concerning the grant of a temporary licence during the pendency of an appeal) shall apply in the case of any appeal under *subsection (1)*.

(3) The jurisdiction of the Circuit Court to hear an appeal under this section shall be exercised by the judge of that Court having jurisdiction in the circuit in which was situate the court house in which the order appealed from was made.

21.—(1) A person who is disqualified from holding a relevant licence under any of the provisions of this Act shall be disqualified from being a shadow licence holder in relation to the operation of the licence.

Shadow licence holder.

(2) A disqualification under this section shall be for the same period as the person has been disqualified under a provision of this Act.

(3) Where, upon an application by a member of the Garda Síochána not below the rank of inspector, a judge of the District Court is satisfied that a person, who is disqualified under *subsection (1)* from being a shadow licence holder in relation to the operation of a relevant licence, is a shadow licence holder in relation to the operation of the licence—

- (a) the holder of the licence shall, unless he or she can satisfy the judge that there is good reason for not doing so, be disqualified for ever from holding a relevant licence,
- (b) the person who is a shadow licence holder in relation to the operation of the licence shall, where he or she has not already been disqualified for ever under this Act from holding a relevant licence, be so disqualified,
- (c) the licence shall be immediately revoked (in the case of a public dancing licence or a public music and singing licence) or forfeited (in the case of an intoxicating liquor licence), and
- (d) subject to *subsection (4)*, the place or premises in respect of which the licence applied shall not again have a relevant licence attached to it.

(4) Where a public dancing licence or a public music and singing licence is revoked under *paragraph (c)* of *subsection (3)* and the person to whom the licence had been granted was not the owner of the place in respect of which the licence applied, the provisions of *subsection (3)* relating to such place shall not apply where, on application to the court by the owner, the court is satisfied that the owner did not know and had no reason to suspect that there was a shadow

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licence holder in relation to the operation of the licence who has been disqualified under *subsection (1)* from being a shadow licence holder in relation to the operation of a relevant licence.

(5) Any application under *subsection (3)* or *subsection (4)* may be made at any time to the District Court for the licensing area in which the place or premises to which the licence relates is situate.

(6) In this section—

“director” includes a shadow director within the meaning of section 27 of the Companies Act, 1990;

“relevant licence” means an intoxicating liquor licence, a public dancing licence or a public music and singing licence;

“shadow licence holder”, in relation to the operation of a relevant licence, means a person who is not the holder of the licence but who—

(a) by reason of any understanding, arrangement or direction in relation to any profit or gain from the operation of the licence, enjoys or is entitled to any such profit or gain, or

(b) controls or conducts the activities under any such licence, either directly or indirectly, that is held by another person or a body corporate of which he or she is the director, manager, secretary or other officer.

Short title,
collective citation,
construction and
commencement.

22.—(1) This Act may be cited as the Licensing (Combating Drug Abuse) Act, 1997.

(2) The Act of 1935 and *sections 2 to 10 and 21* in so far as they relate to public dancing licences may be cited together as the Public Dance Halls Acts, 1935 and 1997, and shall be construed together as one.

(3) The Licensing Acts and *sections 2 and 21* in so far as they relate to intoxicating liquor licences and *sections 17 to 20* may be cited together as the Licensing Acts, 1833 to 1997, and shall be construed together as one.

(4) This Act shall come into operation one month after the date of its passing.