



The purpose of this note is to draw the attention of the profession to the need to exercise extreme care in establishing exactly what type of Licence attaches to a Hotel.

If a Hotel was licensed prior to 1902 it has what is commonly known as a full Publicans Licence. If a Licence was granted for a Hotel after 1902 pursuant to paragraph (2) of Section 2 of the Licensing (Ireland) Act, 1902 it is not a full Seven Day Publicans Licence as such but is a restricted Publicans Licence. The Licence authorises the sale and supply of intoxicating liquors in a premises, which said premises must comply with the following definition contained in paragraph (2) of Section 2 of the Act 1902 as follows:-

1. The premises must contain at least ten, or, if situate in a County Borough or the Dublin Metropolitan District, twenty apartments set aside and used exclusively for the sleeping accommodation of travellers.
2. There must be no Public Bar on the premises for the sale of intoxicating Liquor.

Section 19 of the Intoxicating Liquor Act, 1960 did away with the prohibition against having a Public Bar on a Hotel premises by providing that where a Hotelier obtained the consent to the extinguishment of an “unrestricted” Publicans Licence anywhere in the State, he would be entitled to make an application to the Court for an Order permitting him to have a Public Bar on his Hotel premises.

The making of an Order pursuant to Section 19 of the Intoxicating Liquor Act, 1960 does not convert the restricted Publicans Licence (Hotel) Licence into an unrestricted full Seven Day Publicans On-Licence. A Hotelier who has successfully invoked Section 19 of the Act of 1960 must still ensure that his Hotel premises come within the definition of Paragraph (2) of Section 2 of the Act of 1902 as amended in that it must contain a requisite amount of bedrooms there required and specified.

Furthermore for those Hotels which were first licensed pursuant to the Tourist Traffic Act, 1952 (these are quite limited in number) and for those Hotels which first obtained a Hotel Licence after the enactment of the Intoxicating Liquor Act, 1960 it is necessary in order to obtain a renewal of the Licence to show that the Hotel is registered with Bord Failte. This requirement was introduced by Section 20 of the Intoxicating Liquor Act, 1960.

The effect of this is that if a Hotel ceases to maintain the required number of bedrooms, or ceases to be registered with Bord Failte, then the premises ceases to answer the definition of Hotel contained in paragraph (2) of Section 2 of the Act, of 1902 as amended and consequently is no longer entitled to operate as a Hotel and thereby has no licence whatever to operate a Bar on the premises or serve intoxicating liquor to anyone. Once a Hotel premises ceases to operate as a Hotel, the Hotel Licence ceases to be a protection to the Holder.

HOTEL LICENCES

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The actual Licence paper relating to the full Seven Day Publicans On-Licence and to the restricted (Hotel) Licence is one and the same; however; some years ago for the purposes of alerting people to the differences in these licences, the following note was inserted at the bottom of the Licence as follows:-

“This form of Licence is used for both (1) Public houses and (2) certain Hotels licensed under Section 2 (2) of the Licensing (Ireland) Act 1902. These Hotel Licences are subject to certain restrictions which do not apply to Public houses”.

Unfortunately, it is not possible, from an examination of the statement, to establish whether this Licence relates to a Public House or a Hotel. The only way in which this can be done is to personally investigate the District Court Licensing Register relating to the actual premises as far back as records go and ascertain the jurisdictional section pursuant to which the Licence was first granted. If the Licence was first granted prior to 1902, then it will clearly not be a Hotel Licence as the Hotel Licence was only created in 1902.

There is a popular misconception that an Application in respect of Hotel premises pursuant to Section 19 of the Act, 1990 converts a “Hotel Licence” into a Publicans Licence. This is incorrect and it cannot be sufficiently stressed that a Section 19 Order merely does away with the prohibition against having a Public Bar on a Hotel premises.

Because of this popular misconception however, restricted Hotel Licences have in fact been renewed as Publicans Licences. Again this does not entitle the holder of a Hotel Licence, which he thought was a seven day publicans on-licence to hold a full publicans licence.

In order to protect himself or herself therefore, every solicitor when purchasing a licensed premises for a client, should personally and in detail inspect the District Court Licensing Register in respect of the premises in order to conclusively ascertain the type of Licence attaching to the said premises.