

R. (on the application of D&D Bar Services Ltd) v Romford Magistrates' Court

Queen's Bench Division (Administrative Court)

04 February 2014

Case Analysis

Where Reported [2014] EWHC 344 (Admin); [2014] L.L.R. 761;

Case Digest

Subject: Licensing

Keywords: Compliance; Irregularities; Licensing authorities; Notices; Premises licences

Summary: Public notices advertising a licensing review which failed to specify the grounds for review and put the last three lines in the wrong font, in breach of the [Licensing Act 2003 \(Premises licences and club premises certificates\) Regulations 2005](#), were not defective. The errors were minor irregularities, and it had not been Parliament's intention that such minor errors would make any subsequent consideration of a licence void.

Abstract: The claimant nightclub operator (D) applied for judicial review of a district judge's decision that public notices advertising a licensing review were not defective.

The interested party local authority had applied to review D's premises licences under the [Licensing Act 2003 s.51](#) and displayed notices asking for representations from any party. R informed the local authority that the notices had failed to comply with the [Licensing Act 2003 \(Premises licences and club premises certificates\) Regulations 2005](#) in that they had failed to specify the grounds for the review and the last three lines were printed in size 14 font rather than size 16, in breach of [reg.39\(c\)](#) and [reg.38\(1\)](#) respectively. The licensing sub-committee determined that nobody had been misled or disadvantaged by the failures in the notices and that there was no reason to grant an adjournment. The review hearing went ahead and the licence conditions were modified. R's appeal was rejected, the district judge finding that the notices were defective but that the two errors were minor irregularities.

R submitted that the terms of the Regulations were mandatory and that where there had been a substantive

breach of the notification and advertisement requirements of the Act in relation to applications for review, the licensing authority did not have jurisdiction to waive the breach and proceed to a hearing, but had to start the whole procedure again.

Held: Application refused.

It could never have been Parliament's intention that minor errors on a notice or advertisement for a licensing review should make any subsequent consideration of a licence void. Such an approach would lead to absurd consequences. There had to be substantial compliance with reg.38(1)(a) and reg.39(c) but the process should not be frustrated by minor errors. The suggestion that there had been a total failure to comply with a significant part of a requirement did not reflect the reality of what had occurred. The judge had considered the errors in the notices to be "minor irregularities", and in the context that was an entirely reasonable conclusion and he had been right to follow the principle that the court should consider what consequences flowed from a breach (see para.19 of judgment).

Judge: Judge Blackett

Counsel: For the claimant: Philip Kolvin QC, Jeremy Phillips. For the interested party: No appearance or representation. For the Interested party: David Matthias QC, Gary Grant.

Solicitor: For the claimant: Dadds LLP. For the interested party: In-house solicitor.

All Cases Cited

R. v Soneji (Kamlesh Kumar)

[\[2005\] UKHL 49](#); [\[2006\] 1 A.C. 340](#); [\[2005\] 3 W.L.R. 303](#); [\[2005\] 4 All E.R. 321](#); [\[2006\] 2 Cr. App. R. 20](#); [\[2006\] 1 Cr. App. R. \(S.\) 79](#); [Times, July 22, 2005](#); [Independent, July 26, 2005](#); [\[2006\] Crim. L.R. 167](#); [\(2005\) 102\(31\) L.S.G. 26](#); [\(2005\) 155 N.L.J. 1315](#); [\(2005\) 149 S.J.L.B. 924](#); [HL](#); 21 July 2005

R. v Secretary of State for the Home Department Ex p. Jeyanthan

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London & Clydeside Estates Ltd v Aberdeen DC

[\[1980\] 1 W.L.R. 182](#); [\[1979\] 3 All E.R. 876](#); [1980 S.C. \(H.L.\) 1](#); [1980 S.L.T. 81](#); [\(1980\) 39 P. & C.R. 549](#); [\(1979\) 253 E.G. 1011](#); [\(1980\) 124 S.J. 100](#); HL; 08 November 1979

All Cases Citing

Mentioned by

R. (on the application of Akin (t/a Efe's Snooker Club)) v Stratford Magistrates' Court

[\[2014\] EWHC 4633 \(Admin\)](#); [\[2015\] 1 W.L.R. 4829](#); [\[2015\] L.L.R. 397](#); [\[2015\] A.C.D. 66](#); DC; 28 November 2014

Significant Legislation Cited

[Licensing Act 2003 \(Premises licences and club premises certificates\) Regulations 2005 \(SI 2005/42\)](#)

[Licensing Act 2003 \(Premises licences and club premises certificates\) Regulations 2005 \(SI 2005/42\) reg.38\(1\)](#)

[Licensing Act 2003 \(Premises licences and club premises certificates\) Regulations 2005 \(SI 2005/42\) reg.39\(c\)](#)

[Licensing Act 2003 \(c.17\) s.51](#)

Legislation Cited

[Gambling Act 2005 \(c.19\)](#)

[Licensing Act 2003 \(Premises licences and club premises certificates\) Regulations 2005 \(SI 2005/42\)](#)

[Licensing Act 2003 \(Premises licences and club premises certificates\) Regulations 2005 \(SI 2005/42\) Pt 5](#)

[Licensing Act 2003 \(Premises licences and club premises certificates\) Regulations 2005 \(SI 2005/42\) reg.38](#)

[Licensing Act 2003 \(Premises licences and club premises certificates\) Regulations 2005 \(SI 2005/42\) reg.38\(1\)](#)

[Licensing Act 2003 \(Premises licences and club premises certificates\) Regulations 2005 \(SI 2005/42\) reg.38\(1\)\(a\)\(i\)\(cc\)](#)

[Licensing Act 2003 \(Premises licences and club premises certificates\) Regulations 2005 \(SI 2005/42\) reg.39](#)

[Licensing Act 2003 \(Premises licences and club premises certificates\) Regulations 2005 \(SI 2005/42\) reg.39\(c\)](#)

[Licensing Act 2003 \(c.17\)](#)

[Licensing Act 2003 \(c.17\) Pt 3](#)

[Licensing Act 2003 \(c.17\) s.51](#)

[Licensing Act 2003 \(c.17\) s.51\(3\)](#)

[Licensing Act 2003 \(c.17\) s.51\(3\)\(b\)](#)

[Licensing Act 2003 \(c.17\) s.52](#)

[Licensing Act 2003 \(c.17\) s.52\(1\)](#)

[Licensing Act 2003 \(c.17\) s.52\(1\)\(c\)](#)

[Police Reform and Social Responsibility Act 2011 \(c.13\)](#)

Journal Articles

Licence to thrill

Fees; Lap dancing clubs; Licences; Licensing authorities; Premises licences; Procedural irregularity; Reviews; Sex establishments.

[S.J. 2015, 159\(25\), 30-31](#)

Judicial review - Licensing Act 2003

Irregularities; Licensing authorities; Notices; Premises licences.

[L.R. 2014, 97\(Apr/May\), 23-25](#)

Books

Building Contract Disputes

Chapter: Chapter 5 Adjudication

Documents: [Judicial Control of Adjudication](#)

Cross on Local Government Law

Chapter: Chapter 29 - Miscellaneous Powers, Duties and Services

Documents: [29-46](#)

Local Authority Licensing and Registration

Chapter: Licensing Act 2003

Documents: [3.152 Application for review of premises licence](#)

Insight

[Alcohol licensing: premises licences' procedure](#)

[Hostess bars](#)

