

## SCHEDULES

### SCHEDULE 3

Section 16.

#### PERMITS FOR COMMERCIAL PROVISION OF AMUSEMENTS WITH PRIZES

##### *Interpretation*

- 1 (1) In this Schedule "the appropriate authority " means—
- (a) in relation to any premises in England or Wales in respect of which a justices' on-licence (other than a Part IV licence) is for the time being in force, the licensing justices for the licensing district in which the premises are situated ;
  - (b) in relation to any other premises in England or Wales, the local authority within whose area the premises are situated ;
  - (c) in relation to any premises in Scotland in respect of which a hotel certificate or a public house certificate is for the time being in force, the licensing court for the licensing area in which the premises are situated ;
  - (d) in relation to any other premises in Scotland, the local authority within whose area the premises are situated.
- (2) In this Schedule—
- " justices' on-licence ", licensing district" and " Part IV licence " have the same meanings as in the Licensing Act 1964 ;
  - " hotel certificate ", " licensing area " and " public house certificate " have the same meanings as in the Licensing (Scotland) Act 1959 ;
  - " local authority " means—
    - (a) in England, a district council, a London borough council and the Common Council of the City of London ;
    - (b) in Wales, a district council; and
    - (c) in Scotland, an islands council and a district council ; and
  - " permit " means a permit under section 16 above.

##### *Resolution by local authority as to grant or renewal of permits*

- 2 Any local authority may pass either of the following resolutions, that is to say—
- (a) that (subject to paragraph 3 below) the authority will not grant any permits in respect of premises of a class specified in the resolution ; or
  - (b) that (subject to paragraph 3 below) the authority will neither grant nor renew any permit in respect of premises of a class specified in the resolution.
- 3 (1) No resolution under paragraph 2 above shall have effect in relation to the grant or renewal of permits in respect of premises to which this paragraph applies.
- (2) This paragraph applies to any premises used or to be used wholly or mainly for the purposes of a pleasure fair consisting wholly or mainly of amusements.

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*Status: This is the original version (as it was originally enacted).*

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*Application for grant or renewal of permit*

- 4 (1) An application to the appropriate authority for the grant of a permit in respect of any premises may be made—
- (a) by the holder of the licence or certificate, in the case of premises such as are mentioned in paragraph 1(1)(a) or (c) above, and
  - (b) in any other case, by the person who is, or by any person who proposes if the permit is granted to become, the occupier of the premises.
- (2) The holder of a permit may apply from time to time for the renewal of the permit.
- 5 The appropriate authority shall not refuse to grant or renew a permit without affording to the applicant or a person acting for him an opportunity of appearing before, and being heard by, the appropriate authority or (where that authority is a local authority) a committee of the local authority.

*Grounds for refusal to grant or renew permit*

- 6 (1) Where an application for the grant or renewal of a permit is made to a local authority, then if—
- (a) there is for the time being in force a resolution passed by that authority in accordance with paragraph 2 above which is applicable to the premises to which the application relates, and
  - (b) the permit could not be granted or renewed without contravening that resolution,
- it shall be the duty of the authority to refuse to grant or renew the permit.
- (2) The grant or renewal of a permit shall not be invalidated by any failure to comply with this paragraph, and no duty of a local authority to comply with this paragraph shall be enforceable by legal proceedings.
- 7 (1) In the case of premises to which paragraph 3 above applies—
- (a) the grant of a permit shall be at the discretion of the appropriate authority; but
  - (b) the appropriate authority shall not refuse to renew a permit except either on the grounds that they or their authorised representatives have been refused reasonable facilities to inspect the premises or by reason of the conditions in which amusements with prizes have been provided on the premises, or the manner in which any such amusements have been conducted, while the permit has been in force.
- (2) In the case of premises other than premises to which paragraph 3 above applies, the grant or renewal of a permit shall (subject to paragraph 6 above) be at the discretion of the appropriate authority ; and in particular, and without prejudice to the generality of that discretion, the appropriate authority may refuse to grant or renew any such permit on the grounds that, by reason of the purposes for which, or the persons by whom, or any circumstances in which, the premises are or are to be used, it is undesirable that amusements with prizes should be provided on those premises.
- (3) The preceding provisions of this paragraph shall have effect subject to section 17(1) above.
- (4) In this paragraph any reference to amusements with prizes includes any amusements provided by means of a machine to which Part III of the Gaming Act 1968 applies.

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*Status: This is the original version (as it was originally enacted).*

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*Appeal in England or Wales against decision of appropriate authority*

- 8 (1) Where on an application under this Schedule in England or Wales the appropriate authority refuse to grant or renew a permit, or grant or renew it subject to a condition, the authority shall forthwith give to the applicant notice of their decision and of the grounds on which it is made.
- (2) Where such a notice has been given, the applicant may, by notice to the clerk to the appropriate authority, appeal against the decision to the Crown Court.
- (3) As soon as practicable after receiving notice of appeal against a decision of the appropriate authority, the clerk to the authority shall send the notice to the appropriate officer of the Crown Court together with a statement of the decision against which the appeal is brought and of the name and last-known residence or place of business of the appellant, and on receipt of the notice, that officer shall enter the appeal and give to the appellant and to the appropriate authority not less than seven days' notice in writing of the date, time and place appointed for the hearing of the appeal.
- (4) A justice shall not act in the hearing or determination of an appeal under this paragraph from any decision in which he took part.
- 9 The Court shall not allow an appeal under this Schedule if satisfied that, by virtue of paragraph 6 above, it was the duty of the appropriate authority to refuse to grant or renew the permit.
- 10 Subject to paragraph 9 above, on any such appeal the Court may by its order allow or dismiss the appeal, or reverse or vary any part of the decision of the appropriate authority, and may deal with the application as if it had been made to the Court in the first instance ; and the judgment of the Court on the appeal shall be final.
- 11 Where the appropriate authority is the licensing justices for a licensing district and the Court—
- (a) has allowed an appeal, or
  - (b) has awarded the licensing justices any costs and is satisfied that the licensing justices cannot recover those costs,
- the Court shall order payment out of central funds of such sums as appear to the Court sufficient to indemnify the licensing justices from all costs and charges whatever to which they have been put in consequence of the appellant's having served notice of appeal.

*Appeal in Scotland against decision of appropriate authority*

- 12 Where on an application under this Schedule in Scotland the appropriate authority refuse to grant or renew a permit, or grant or renew it subject to a condition, the authority shall forthwith give to the applicant notice of their decision and of the grounds on which it is made; and the applicant may, within such time, and in accordance with such rules, as may be prescribed by the Court of Session by act of sederunt, appeal against the decision to the sheriff having jurisdiction in the authority's area.
- 13 The sheriff shall not allow an appeal under this Schedule if satisfied that, by virtue of paragraph 6 above, it was the duty of the appropriate authority to refuse to grant or renew the permit.

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*Status: This is the original version (as it was originally enacted).*

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- 14 (1) Subject to paragraph 13 above, on any such appeal the sheriff may allow or dismiss the appeal, or reverse or vary any part of the decision of the appropriate authority, and may deal with the application as if it had been made to him in the first instance.
- (2) The decision of the sheriff on the appeal shall be final and may include such order as to the expenses of the appeal as he thinks proper.

*Duration of permit*

- 15 Subject to the following provisions of this Schedule, and without prejudice to the cancellation of any permit under section 17(2) above, a permit—
- (a) if not renewed, shall cease to have effect on such date, not being less than three years beginning with the date on which it was granted, as may be specified in the permit, or
  - (b) if renewed, shall, unless further renewed, cease to have effect on such date, not being less than three years beginning with the date on which it was renewed or last renewed, as the case may be, as may be specified in the decision to renew it.
- 16 (1) Where an application for the renewal of a permit is made not less than one month before the date on which it is due to expire, the permit shall not cease to have effect by virtue of paragraph 15 above before the appropriate authority have determined the application or the application has been withdrawn.
- (2) Where, on such an application, the appropriate authority refuse to renew the permit, it shall not cease to have effect by virtue of paragraph 15 above before the time within which the applicant can appeal against the refusal has expired, and, if he so appeals, shall not cease to have effect by virtue of that paragraph until the appeal has been determined or abandoned.
- 17 (1) A permit shall not be transferable, and, subject to the following provisions of this paragraph, shall cease to have effect if—
- (a) in the case of premises falling within paragraph 1(1)(a) or (c) above, the holder of the permit ceases to be the holder of the licence or certificate in respect of the premises, or
  - (b) in the case of any other premises, the holder of the permit ceases to be the occupier of the premises.
- (2) If the holder of a permit dies while the permit is in force—
- (a) the permit shall not cease to have effect by virtue of paragraph 15 above or by virtue of the preceding sub-paragraph before the end of the period of six months beginning with the date of his death, and
  - (b) except for the purposes of a renewal of the permit, his personal representatives shall be deemed to be the holder of the permit;
- and the appropriate authority may from time to time on the application of those personal representatives, extend or further extend the period for which the permit continues to have effect by virtue of this sub-paragraph if satisfied that the extension is necessary for the purpose of winding up the estate of the deceased and that no other circumstances make it undesirable.

*Payment of fees*

- 18 Notwithstanding anything in the preceding provisions of this Schedule, no permit shall be granted or renewed except on payment by the applicant to the appropriate authority or their clerk of a fee of £2.50.