

Status: Point in time view as at 01/04/2001.

*Changes to legislation: There are currently no known outstanding effects for the Gaming Act 1968 (repealed),
Cross Heading: Cancellation of licence by licensing authority or court. (See end of Document for details)*

SCHEDULES

SCHEDULE 2

GRANT, RENEWAL, CANCELLATION AND TRANSFER OF LICENCES

Cancellation of licence by licensing authority or court

- 36 (1) An application for the cancellation of a licence under this Act may be made by any person at any time to the [^{F1}proper officer of] the licensing authority.
- (2) Any such application shall be made in the prescribed form and manner and shall be accompanied by two copies of a statement of the grounds on which the application is made.
- (3) On receipt of such an application, the [^{F1}proper officer of] the licensing authority shall submit it to one member of the authority for consideration by him.
- (4) If that member, after considering the application, is of the opinion that—
- (a) further consideration of the matters referred to in the statement accompanying the application is unnecessary or inexpedient before the time when the renewal of the licence falls to be considered, or
 - (b) the licensing authority would be required by virtue of paragraph 41 of this Schedule to refuse the application,
- he shall cause notice in writing to be given to the applicant that the application is refused, without prejudice to the raising of the same matters by way of objection to a renewal of the licence.
- (5) In any other case, the member of the licensing authority to whom the application is submitted shall refer it to the licensing authority.

Textual Amendments

- F1** Words in Sch. 2 para. 36(1)(3) substituted (1.4.2001) by 1999 c. 22, s. 90(1), Sch. 13 para. 58(9)(f) (with s. 107, Sch. 14 para. 7(2)); S.I. 2001/916, art. 2(a)(ii)

- 37 Where an application for the cancellation of a licence under this Act is referred to the licensing authority under the last preceding paragraph, and that application has not been withdrawn, the [^{F2}proper officer of] the authority shall give to the applicant, to the holder of the licence, to the appropriate officer of police, to the Board and to the appropriate collector of duty not less than twenty-one days' notice in writing of the date, time and place appointed for the consideration of the application by the authority, and shall send to the holder of the licence together with that notice a copy of the applicant's statement of the grounds on which the application is made.

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Textual Amendments

F2 Words in **Sch. 2 para. 37** substituted (1.4.2001) by 1999 c. 22, s. 90(1), **Sch. 13 para. 58(9)(f)** (with s. 107, Sch. 14 para. 7(2)); S.I. 2001/916, **art. 2(a)(ii)**

- 38 At any meeting of the licensing authority to consider such an application, the applicant and the holder of the licence shall be entitled to be heard either in person or by counsel or a solicitor; and, where the applicant is a person other than the appropriate officer of police, the licensing authority shall also hear any representations made by that officer or by any person authorised by him in that behalf.
- 39 A licensing authority may from time to time adjourn the consideration of any application for the cancellation of a licence under this Act.
- 40 On the consideration of any such application, a licensing authority may take evidence on oath and may make such order as they think fit for the payment of costs (or, in Scotland, expenses)—
- (a) by the applicant to the holder of the licence, or
 - (b) by the holder of the licence to the applicant.
- 41 The licensing authority shall refuse any such application if they are satisfied that it is made on grounds which have been, or ought properly to have been, raised previously by way of objection either when the licence was granted or on an occasion when it has been renewed.
- 42 Subject to the last preceding paragraph, on any application for the cancellation of a licence under this Act which is referred to them, the licensing authority may cancel the licence on any of the grounds specified in paragraph 20 or paragraph 21 of this Schedule.
- 43 If on such an application the licensing authority decide not to cancel the licence, the authority shall cause notice in writing to be given to the applicant that the application is refused, without prejudice to the raising of the same matters by way of objection to a renewal of the licence.
- 44 If on such an application the licensing authority decide to cancel the licence, the cancellation—
- (a) shall not take effect until the time within which the holder of the licence can appeal against that decision has expired, and
 - (b) if he so appeals, shall not take effect until the appeal has been determined or abandoned.
- 45 The provisions of paragraphs 29 and 30 of this Schedule (in England or Wales) or paragraph 33 of this Schedule (in Scotland) shall have effect in relation to the cancellation of a licence under this Act as they have effect in relation to a refusal to grant or renew such a licence, as if in those paragraphs—
- (a) any reference to the applicant were a reference to the holder of the licence, and
 - (b) any reference to a person who opposed the application before the licensing authority were a reference to the person who made the application for the cancellation of the licence.

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- 46 (1) Where a licensing authority in England or Wales refuse to cancel a licence under this Act, the Board may, by notice to the [^{F3}proper officer] of the licensing authority, appeal against the decision of the licensing authority to [^{F4}the Crown Court].
- (2) The provisions of paragraph 31(2) to (4) and paragraph 32 of this Schedule shall have effect in relation to any such appeal as they have effect in relation to an appeal by the Board against the grant or renewal of such licence, as if in those provisions—
- (a) any reference to any person (other than the Board) who opposed the application before the licensing authority were omitted, and
 - (b) any reference to the applicant who applied for the grant or renewal were a reference to the holder of the licence.

Textual Amendments

- F3** Words in Sch. 2 para. 46(1) substituted (1.4.2001) by 1999 c. 22, s. 90(1), Sch. 13 para. 58(10) (with s. 107, Sch. 14 para. 7(2)); S.I. 2001/916, art. 2(a)(ii)
- F4** Words substituted by Courts Act 1971 (c. 23), s. 56(2), Sch. 9 Pt. I

- 47 (1) Where a licensing authority in Scotland refuse to cancel a licence under this Act, the Board 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 of the licensing authority to the sheriff having jurisdiction in the authority's area.
- (2) Sub-paragraphs (2) and (3) of paragraph 33 of this Schedule shall have effect in relation to appeals under this paragraph as they have effect in relation to appeals under that paragraph.
- 48 (1) Where the holder of a licence under this Act in respect of any premises is convicted of an offence under Schedule 3 to the ^{M1}Finance Act 1966 in respect of a contravention of [^{F5}section 13 of that Act or of an offence under [^{F6}Section 15 or 24 of the Betting and Gaming Duties Act 1981 or paragraph 7 of Schedule 2 or paragraph 16 of Schedule 4 to that Act (or under the corresponding provisions of the Betting and Gaming Duties Act 1972 or the corresponding provisions of the enactments consolidated by that Act) [^{F7}or of an offence under paragraph 12 of Schedule 1 to the Finance Act 1997] and the Commissioners]] of Customs and Excise—
- (a) certify to the court by or before which he is so convicted that the conviction is a second or subsequent conviction for such an offence committed (whether by the same or by some other person) in relation to gaming on those premises and while the same person has been the holder of a licence under this Act in respect of those premises, and
 - (b) apply to the court for effect to be given to this sub-paragraph,
- that court shall order that the licence under this Act in respect of those premises shall be cancelled.
- (2) An order made under this paragraph by a court in England or Wales—
- (a) shall not have effect until the end of the period within which notice of appeal against the conviction which gave rise to the order may be given;
 - (b) if notice of appeal against that conviction is duly given, shall not have effect until the appeal has been determined or abandoned; and
 - (c) shall not have effect if, on such an appeal, the appeal is allowed.
- (3) An order made under this paragraph by a court in Scotland—

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- (a) shall not have effect until the end of the period of fourteen days beginning with the date on which the order was made;
 - (b) if an appeal against the conviction which gave rise to the order is begun within that period, shall not have effect until the appeal has been determined or abandoned or deemed to have been abandoned, and
 - (c) shall not have effect if, on such an appeal, the appeal is allowed.
- (4) Where a person is the holder of a licence under this Act, and the licence is cancelled by virtue of an order made under this paragraph, the [^{F8}proper officer of] the court by which the order was made shall, unless he is also the [^{F8}proper officer of] the licensing authority, send a copy of the order to the [^{F8}proper officer of] the licensing authority; and (without prejudice to the renewal of any other licence under this Act held by the same person) the licensing authority shall, notwithstanding anything in the preceding provisions of this Schedule, refuse any application by that person for the grant of a licence under this Act in respect of the same or any other premises if it is made less than twelve months after the date of the order.
- [^{F9}(5) In sub-paragraph (4) of this paragraph, “the proper officer of the court” means—
- (a) in relation to a magistrates’ court, the justices’ chief executive for the court, and
 - (b) in relation to any other court, the clerk of the court.]

Textual Amendments

- F5** Words substituted by [Betting and Gaming Duties Act 1972 \(c. 25\), s. 29\(1\)](#), **Sch. 5 para. 3**
- F6** Words substituted by [Betting and Gaming Duties Act 1981 \(c. 63, SIF 12:2\), s. 34\(1\)](#), **Sch. 5 para. 3**
- F7** Words in [Sch. 2 para. 48\(1\)](#) inserted (19.3.1997) by [1997 c. 16, ss. 13\(2\), 15\(2\)](#), **Sch. 2 Pt. II para. 5(3)**
- F8** Words in [Sch. 2 para. 48\(4\)](#) substituted (1.4.2001) by [1999 c. 22, s. 90\(1\)](#), **Sch. 13 para. 58(11)(a)** (with [s. 107, Sch. 14 para. 7\(2\)](#)); [S.I. 2001/916, art. 2\(a\)\(ii\)](#)
- F9** [Sch. 2 para. 48\(5\)](#) inserted (1.4.2001) by [1999 c. 22, s. 90\(1\)](#), **Sch. 13 para. 58(11)(b)** (with [s. 107, Sch. 14 para. 7\(2\)](#)); [S.I. 2001/916, art. 2\(a\)\(ii\)](#)

Marginal Citations

- M1** [1966 c. 18.](#)

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