

## SCHEDULES

### SCHEDULE 9

#### PERMITS UNDER SECTION 34

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

- 11 (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 a court of quarter sessions having jurisdiction in the authority's area.
- (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 clerk of the peace 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.
- (4) On receipt of the notice of appeal, the clerk of the peace 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.
- (5) A justice shall not act in the hearing or determination of an appeal under this paragraph from any decision in which he took part.
- 12 (1) Where the appeal is an appeal against a decision of a local authority refusing to grant or renew a permit, the court of quarter sessions shall not allow the appeal if satisfied that, by virtue of paragraph 7 of this Schedule, it was the duty of the authority to refuse to grant or renew the permit.
- (2) Where the appeal is against a decision of a local authority to grant or renew a permit subject to a condition, and the court of quarter sessions is satisfied that, by virtue of paragraph 9 of this Schedule, it was the duty of the authority to grant or renew the permit subject to such a condition as is mentioned in that paragraph, the court shall not reverse or vary the decision so as—
- (a) to grant or renew the permit unconditionally, or
- (b) to grant or renew the permit subject to a condition limiting the number of machines to which Part III of this Act applies which may be made available for gaming on the premises to a number exceeding the number specified in the resolution of the local authority.
- 13 Subject to paragraph 12 of this Schedule, on any appeal under paragraph 11 of this Schedule the court of quarter sessions 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 of quarter sessions in

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*Status: This is the original version (as it was originally enacted).*

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the first instance ; and the judgment of the court of quarter sessions on the appeal shall be final.

- 14 (1) On determining any appeal under paragraph 11 of this Schedule, or on being satisfied that the appellant, after giving notice of such an appeal, has failed to prosecute it, the court of quarter sessions may make such order as it thinks fit for the payment of costs by or to the appellant or the appropriate authority.
- (2) Where the appropriate authority is the licensing justices for a licensing district, and the court of quarter sessions—
- (a) has allowed such an appeal, or
  - (b) has awarded the licensing justices any costs under the preceding subparagraph and is satisfied that the licensing justices cannot recover those costs,
- the court shall order payment out of local 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.
- (3) Costs payable out of local funds under this paragraph—
- (a) if the licensing district is a borough having a separate court of quarter sessions, shall be paid out of the general rate fund of the borough ; and
  - (b) in any other case, shall be paid out of the county fund of the county in which the licensing district is situated.
- (4) Sections 8(1) and 11(1) of the Costs in Criminal Cases Act 1952 (which make provision for payment out of local funds of costs ordered to be paid under that Act) shall apply to costs ordered to be paid under this paragraph as if any reference in those provisions to a county borough were a reference to a borough having a separate court of quarter sessions.
- (5) An order of a court of quarter sessions under this paragraph may be made either at the sessions at which the appeal is heard, or at which it would have been heard if the appeal had been prosecuted, or at the next following sessions; and the costs may be taxed either in or out of sessions.