

SCHEDULES

SCHEDULE 1

Article 3

LICENSING OF PLACES OF ENTERTAINMENT

Licensing of indoor places of entertainment

1.—(1) An entertainment to which this paragraph applies shall not be provided at a place to which this paragraph applies except under and in accordance with the terms of a licence granted under paragraph 3 by the council for the district in which the place is situated.

(2) Subject to sub-paragraph (3), this paragraph applies to the following entertainments, namely—

- (a) a theatrical performance;
- (b) dancing, singing or music or any other entertainment of a like kind;
- (c) a circus;
- (d) any entertainment which consists of, or includes, any public contest, match, exhibition or display of—
 - (i) boxing, wrestling, judo, karate or any similar sport;
 - (ii) billiards, pool, snooker or any similar game;
 - (iii) darts;
 - (iv) any other sport or game prescribed for the purposes of this paragraph by an order made by the Department subject to affirmative resolution.

(3) This paragraph does not apply to—

- (a) any music or singing—
 - (i) in a place used wholly or mainly for public religious worship; or
 - (ii) performed as an incident of a religious meeting or service;
- (b) an entertainment which takes place wholly or mainly in the open air.

(4) Subject to sub-paragraph (5), machines for entertainment or amusement and equipment for the playing of billiards, pool, snooker or other similar games shall not be provided at a place to which this paragraph applies except under and in accordance with the terms of a licence granted under paragraph 3 by the council for the district in which the place is situated.

(5) Sub-paragraph (4) does not apply to—

- (a) machines or equipment provided incidentally to the main purpose or use of any place;
- (b) machines or equipment provided wholly or mainly in the open air;
- (c) gaming machines, that is to say machines which are constructed or adapted for playing games of chance by means of them and have slots or apertures for the insertion of money in the form of cash or tokens.

(6) Subject to sub-paragraph (7), this paragraph applies to—

- (a) any place where, on payment of a charge, persons are admitted for the purpose of entertainment or amusement;

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- (b) any place where, on payment of a charge, meals or refreshments are supplied to the public; and
 - (c) any place where, on payment of a charge, persons may use any machines or equipment referred to in sub-paragraph (4) for the purpose of entertainment or amusement,
- and in this sub-paragraph “charge” includes any form of charge whenever paid and whether paid by money or money's worth.

(7) This paragraph does not apply to the following places, namely—

- (a) any premises licensed under^{F1} Article 3 of the Cinemas (Northern Ireland) Order 1991]; or
- (b) an educational institution while being used as such.

(8) In the following provisions of this Schedule references to an entertainment to which this paragraph applies shall include references to any machine or equipment referred to in sub-paragraph (4).

F1 1991 NI 12

Licensing of outdoor musical entertainments

2.—(1) An entertainment to which this paragraph applies shall not be provided at any place except under and in accordance with the terms of a licence granted under paragraph 3 by the council for the district in which the place is situated.

(2) This paragraph applies to any public musical entertainment which is held—

- (a) wholly or mainly in the open air; and
- (b) at a place on private land.

(3) For the purposes of this paragraph—

- (a) an entertainment is musical if music or singing is a substantial ingredient; and
- (b) land is private if the public has access to it (whether on payment or otherwise) only by permission of the owner, occupier or lessee.

(4) This paragraph does not apply—

- (a) to a garden fete, bazaar, sale of work, sporting or athletic event, exhibition, display or other function or event of a similar character, whether limited to one day or extending over two or more days; or
- (b) to a religious meeting or service,

merely because music or singing is incidental to it.

(5) This paragraph does not apply to an entertainment held in a pleasure fair.

Grant, renewal and transfer of entertainments licences

3.—(1) The council may grant to any applicant, and from time to time renew, a licence for the use of any place specified in it for all or any of the entertainments to which paragraphs 1 and 2 apply.

(2) Subject to sub-paragraphs (3) to (5), a licence under this paragraph may be granted—

- (a) on such terms and conditions; and
- (b) subject to such restrictions,

as may be specified in it.

(3) In specifying any terms, conditions or restrictions in a licence under this paragraph the council shall have regard to any model terms, conditions and restrictions published for the purposes of this paragraph by the Department.

(4) Without prejudice to the generality of sub-paragraph (2), terms, conditions and restrictions may be specified in a licence for the use of any place for an entertainment to which paragraph 1 applies for all or any of the following purposes, namely—

- (a) regulating the conduct, days and hours of use and general arrangement of the place;
- (b) securing adequate fire precautions;
- (c) securing the provision of facilities for the disabled;
- (d) securing the provision of adequate sanitary appliances and things used in connection with such appliances;
- (e) preventing persons in the neighbourhood being unreasonably disturbed by noise;
- (f) securing that there is in force a policy of insurance insuring the holder of the licence in respect of any liability which may be incurred by him in respect of the death of, or bodily injury to, any person while on or about the premises.

(5) No terms, conditions or restrictions shall be specified in a licence for the use of any place for an entertainment to which paragraph 2 applies unless they are so specified for all or any of the following purposes, namely—

- (a) for securing general safety at the entertainment for which the licence is granted;
- (b) without prejudice to the generality of head (a), for securing adequate access for fire engines, ambulances, police cars or other vehicles that may be required in an emergency;
- (c) for securing the provision and maintenance of adequate sanitary appliances and things used in connection with such appliances;
- (d) for preventing persons in the neighbourhood being unreasonably disturbed by noise;
- (e) for securing the provision and maintenance of receptacles for litter.

(6) Where a licence under this paragraph has been granted to any person, the council may, if it thinks fit, transfer that licence to any other person on the application of that other person or the holder of the licence.

(7) A licence under this paragraph is referred to in the following provisions of this Schedule as “an entertainments licence”.

Duration of licences

4.—(1) Subject to sub-paragraphs (3) and (4) and paragraph 13, any entertainments licence other than a licence mentioned in sub-paragraph (2) shall, unless previously cancelled under paragraph 9, revoked under paragraph 10(5) or suspended under paragraph 12(1), remain in force for one year or for such shorter period specified in the licence as the council may think fit.

(2) The council may grant an entertainments licence in respect—

- (a) of not more than fourteen particular days specified in the licence; or
- (b) of any fourteen unspecified days within the period of twelve months next following the grant of the licence.

(3) Where, before the date of expiry of an entertainments licence, an application has been made for its renewal, it shall be deemed to remain in force notwithstanding that the date has passed until the withdrawal of the application or its determination by the council.

(4) Where, before the date of expiry of an entertainments licence, an application has been made for its transfer, it shall be deemed to remain in force with any necessary modifications until the

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withdrawal of the application or its determination notwithstanding that the date has passed or that the person to whom the licence is to be transferred if the application is granted is carrying on at the place in respect of which the licence was granted the functions to which it relates.

Applications for the grant, renewal or transfer of licences

5.—(1) An application for the grant, renewal or transfer of an entertainments licence shall be made in writing to the council and the applicant shall supply the council with three copies of the application.

(2) Every application shall—

- (a) be in such form and contain such particulars as the council may reasonably require;
- (b) be accompanied by three copies of such plans, certificates or other documents as the council may reasonably require; and
- (c) be accompanied by such fee as the Department may from time to time determine.

(3) Subject to sub-paragraph (4), an applicant for the grant, renewal or transfer of an entertainments licence shall, not later than 7 days after the date of the application, give public notice of the application by publishing an advertisement in such newspapers circulating in the district of the council as the council may require.

(4) Sub-paragraph (3) does not apply to an applicant for the grant of an entertainments licence mentioned in paragraph 4(2) in respect of an educational institution or a church hall, chapel hall or other similar building occupied in connection with a place of public religious worship.

(5) Every advertisement published under sub-paragraph (3) shall state—

- (a) that application has been made for the grant, renewal or transfer of an entertainments licence (as the case may be);
- (b) the nature of the entertainment and the address or location of the place in respect of which the application has been made;
- (c) the name and address of the applicant;
- (d) that representations in relation to the application may be made to the council in accordance with sub-paragraph (6);

and the applicant shall supply a copy of every such advertisement to the council.

(6) Any person wishing to make any representation in relation to an application for the grant, renewal or transfer of an entertainments licence shall give notice to the council, stating in general terms the nature of the representation, not later than 28 days after the date of the application.

(7) The council shall, as soon as an application for the grant, renewal or transfer of an entertainments licence is made to it, send a copy of the application to the appropriate sub-divisional commander and to the Fire Authority.

(8) In considering any application for the grant, renewal or transfer of an entertainments licence the council shall—

- (a) have regard to any observations submitted to it by the appropriate sub-divisional commander and the Fire Authority;
- [^{F2}(aa) have regard to any conviction of the applicant of an offence under paragraph 10 within the period of 5 years immediately preceding the date when the application was made;]
- (b) give an opportunity of appearing before and of being heard by the council to the applicant;
- (c) have regard to any representation of which notice has been sent to it under sub-paragraph (6); and

- (d) give an opportunity of appearing before and of being heard by the council to any person who has made any such representation.

[^{F2}(9) Subject to paragraph 13 and without prejudice to its power to refuse an application on any other grounds, the council may refuse an application for the grant, renewal or transfer of an entertainments licence on the ground that the applicant has been convicted of an offence under paragraph 10 within the period of 5 years immediately preceding the date when the application was made.]

F2 1995 NI 5

Provisional grant of licences

6.—(1) Where application is made to the council for the grant of an entertainments licence in respect of premises which are to be, or are in the course of being, constructed, extended or altered and the council is satisfied that the premises would, if completed in accordance with plans deposited in accordance with the requirements of the council, be such that it would grant the licence, the council may grant the licence subject to a condition that it shall be of no effect until confirmed by the council.

(2) The council shall confirm any licence granted by virtue of sub-paragraph (1) if and when it is satisfied that the premises have been completed in accordance with the plans referred to in that sub-paragraph or in accordance with those plans as modified with the approval of the council, and that the licence is held by a fit and proper person.

Variation of licences

7.—(1) The holder of an entertainments licence may at any time apply to the council for any such variation of the terms, conditions or restrictions on or subject to which the licence is held as may be specified in the application.

(2) Sub-paragraphs (3) to (8) of paragraph 5 shall, with appropriate modifications, apply to an application under this paragraph as they apply to an application for the grant of an entertainments licence.

(3) The council may—

- (a) make the variation specified in the application;
- (b) make such variations as it thinks fit, including, subject to paragraph 3 (5), the imposition of terms, conditions or restrictions other than those so specified; or
- (c) refuse the application.

[^{F3}7A. An applicant for the variation of the terms, conditions or restrictions on or subject to which an entertainments licence is held shall pay such fee as the Department may determine.]

F3 1992 NI 6

Transmission of licences on death of holder

8. In the event of the death of the holder of an entertainments licence, the person carrying on at the place in respect of which the licence was granted the functions to which the licence relates shall, on giving notice of the death to the council, be deemed to be the holder of the licence unless and until—

- (a) a personal representative of the deceased has been duly constituted; or
- (b) the licence is transferred to some other person.

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Cancellation of licences

9. The council may, at the written request of the holder of an entertainments licence, cancel the licence.

Enforcement

10.—(1) If—

- (a) any entertainment to which paragraph 1 applies is provided at any place to which that paragraph applies in respect of which an entertainments licence is not in force; or
- (b) any entertainment to which paragraph 2 applies is provided at any place in respect of which an entertainments licence is not in force,

then, subject to sub-paragraph (3)—

- (a) any person concerned in the organisation or management of that entertainment; and
- (b) any other person who, knowing or having reasonable cause to suspect that such an entertainment would be so provided at the place,—
 - (i) allowed the place to be used for the provision of that entertainment; or
 - (ii) let the place, or otherwise made it available, to any person by whom an offence in connection with that use of the place has been committed,

shall be guilty of an offence^{F4}

(2) If any place in respect of which an entertainments licence is in force is used for any entertainment otherwise than in accordance with the terms, conditions or restrictions on or subject to which the licence is held, then, subject to sub-paragraphs (3) and (4)—

- (a) the holder of the licence; and
- (b) any other person who, knowing or having reasonable cause to suspect that the place would be so used,—
 - (i) allowed the place to be so used; or
 - (ii) let the place, or otherwise made it available, to any person by whom an offence in connection with that use of the place has been committed,

shall be guilty of an offence^{F4}

[^{F4}(2A) Any person guilty of an offence under sub-paragraph (1) or (2) shall be liable on summary conviction—

- (a) in the case of an offence to which sub-paragraph (2B) applies, to a fine not exceeding £20,000 or to imprisonment for a term not exceeding 6 months or to both;
- (b) in any other case, to a fine not exceeding level 5 on the standard scale.

(2B) This sub-paragraph applies to—

- (a) any offence under sub-paragraph (1) where the entertainment provided is—
 - (i) entertainment referred to in sub-paragraph (2)(b) of paragraph 1 and to which that paragraph applies; or
 - (ii) entertainment to which paragraph 2 applies; and
- (b) any offence under sub-paragraph (2) where the entertainment for which the place is used is—
 - (i) entertainment referred to in sub-paragraph (2)(b) of paragraph 1 and to which that paragraph applies; or
 - (ii) entertainment to which paragraph 2 applies,

and the terms, conditions or restrictions which are contravened or not complied with include one which imposes a limit on the number of persons who may be present at the entertainment.]

(3) It shall be a defence for a person charged with an offence under this paragraph to prove that he took all reasonable precautions and exercised all due diligence to avoid commission of the offence.

(4) Where premises—

(a) are licensed premises under the^{F5} Licensing (Northern Ireland) Order 1996] or the premises of a club registered under the^{F6} Registration of Clubs (Northern Ireland) Order 1987]; and

(b) form all or part of a place in respect of which an entertainments licence is for the time being in force,

no person shall be guilty of an offence under sub-paragraph (2) by reason only of those premises being kept open for any of the purposes authorised by the entertainments licence after the latest hour so authorised but not later than the hour to which intoxicating liquor is authorised to be sold or supplied on those premises under either of the said Acts.

(5) Subject to paragraph 13, the council by which an entertainments licence was granted may revoke it if its holder is convicted of an offence under sub-paragraph (2)(a).

F4	1995 NI 5
F5	1996 NI 22
F6	1992 NI 6

Powers of entry

11.—(1) Where—

- (a) a constable; or
- (b) an authorised officer of the council; or
- (c) an authorised officer of the Fire Authority,

has reason to believe that an entertainment to which paragraph 1 or 2 applies is being, or is about to be, provided in any place in respect of which an entertainments licence is for the time being in force, he may enter the place with a view to seeing whether the terms, conditions or restrictions on or subject to which the licence is held are complied with.

(2) An authorised officer of the Fire Authority may, on giving not less than 24 hours' notice to the occupier of any place in respect of which an entertainments licence is for the time being in force, enter the place for the purpose of—

- (a) inspecting the place to ensure that there are adequate fire precautions; and
- (b) seeing whether the terms, conditions or restrictions relating to fire precautions on or subject to which the licence is held are being complied with.

(3) A constable or authorised officer of the council may enter any place in respect of which he has reason to suspect that an offence under paragraph 10 is being committed if authorised to do so by a warrant granted by a justice of the peace.

(4) Where an authorised officer of the council or of the Fire Authority enters any place in exercise of any power under this paragraph he shall, if required to do so by the occupier, produce to him his authority.

(5) Any person who without reasonable excuse refuses to permit a constable or officer to enter or inspect any place in accordance with the provisions of this paragraph shall be guilty of an offence

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and shall for every such refusal be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Suspension of licences

12.—(1) If it appears to the council that the provision of any entertainment at any place in respect of which an entertainments licence is in force is causing or is likely to cause a serious threat to public order or public safety, the council may, subject to paragraph 13, order the suspension of that entertainments licence.

(2) The council may at any time revoke an order under this paragraph.

(3) Before making an order under this paragraph the council shall—

- (a) consult the appropriate sub-divisional commander and, where it appears to the council to be appropriate, the Fire Authority; and
- (b) give an opportunity of appearing before and of being heard by the council to the holder of the entertainments licence and to any persons who have made representations to the council relating to the provision of any entertainment at the place to which the licence relates.

(4) An order under this paragraph suspending a licence shall have effect from the date on which it is made until whichever is the earlier of the following dates—

- (a) the date on which the order is revoked by the council;
- (b) the date of expiry of the entertainments licence to which the order relates,

and the licence shall be of no effect during that period.

Appeals

13.—(1) Any of the following persons, that is to say—

- (a) an applicant for the grant, renewal or transfer of an entertainments licence in respect of any place whose application is refused;
- (b) an applicant for the variation of the terms, conditions or restrictions on or subject to which any such licence is held whose application is refused;
- (c) a holder of any such licence who is aggrieved by any term, condition or restriction on or subject to which the licence is held; or
- (d) a holder of any such licence whose licence is revoked under paragraph 10(5) or suspended under paragraph 12(1),

may at any time before the expiration of the period of 21 days beginning with the relevant date appeal to the county court for the county court division in which the place is situated.

(2) In this paragraph “the relevant date” means the date on which the person in question is notified of the refusal of his application, the imposition of the term, condition or restriction by which he is aggrieved or the revocation or suspension of his licence, as the case may be.

(3) On an appeal to the county court under this paragraph the court may make such order as it thinks fit and the decision of the court shall be final.

(4) It shall be the duty of the council to give effect to an order of the county court.

(5) Where any entertainments licence is revoked under paragraph 10(5) or an application for the renewal of such a licence is refused, the licence shall be deemed to remain in force—

- (a) until the time for bringing an appeal under this paragraph has expired and, if such an appeal is duly brought, until the determination or abandonment of the appeal; and

- (b) where an appeal relating to the refusal of an application for such a renewal is successful until the licence is renewed by the council.

(6) Where—

- (a) the holder of an entertainments licence makes an application under paragraph 7; and
- (b) the council imposes any term, condition or restriction other than one specified in the application,

the licence shall be deemed to be free of it until the time for bringing an appeal under this paragraph has expired.

(7) Where an appeal is brought under this paragraph against the imposition of any such term, condition or restriction, the licence shall be deemed to be free of the term, condition or restriction until the determination or abandonment of the appeal.

Notification of police and Fire Authority

14.—(1) The council shall send a copy of any entertainments licence granted by it to the appropriate sub-divisional commander and to the Fire Authority.

(2) The council shall notify the appropriate sub-divisional commander and the Fire Authority of the renewal, transfer, variation, cancellation, revocation or suspension of an entertainments licence granted by it.

Transitional provisions

15.—(1) Any licence granted under section 31 of the Local Government Act (Northern Ireland) 1934 or Article 5 of the Theatres (Northern Ireland) Order 1980 and in force immediately before the date on which this Schedule comes into operation—

- (a) shall have effect as from that date as if granted under this Schedule by the council on and subject to terms, conditions and restrictions corresponding to those on and subject to which it was held immediately before that date; and
- (b) shall, if the council gives notice to that effect to the holder, remain in force until such date, not being a date later than six months after the date on which it would otherwise expire, as may be specified in the notice.

(2) Where an appeal under section 31(11) of the Local Government Act (Northern Ireland) 1934 has been brought in respect of a licence before the date on which this Schedule comes into operation but has not been determined or abandoned before that date, the provisions of paragraph 13 shall apply to proceedings relating to the appeal as if the appeal had been brought under that paragraph.

(3) In relation to—

- (a) an entertainment to which paragraph 1 applies but which is not an entertainment to which section 31 of the Local Government Act (Northern Ireland) 1934 or the Theatres (Northern Ireland) Order 1980 applied; and
- (b) an entertainment to which paragraph 2 applies,

paragraph 10(1) shall not apply—

- (i) during the period of two months from the date on which this Schedule comes into operation; and
- (ii) where before the expiry of that period an application is made for an entertainments licence in respect of that entertainment, until the application is granted or refused by the council.

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Changes to legislation: There are currently no known outstanding effects for the The Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985, SCHEDULE 1. (See end of Document for details)

Saving for other statutory provisions

16. Nothing in this Schedule shall affect—

- (a) paragraph 1 of Schedule 3 to the Revision of the Army and Air Force Acts (Transitional Provisions) Act 1955;
- (b) Article 46 of the Fire Services (Northern Ireland) Order 1984.

[^{F7}Sex discrimination

F7 1988 NI 13

16A.—(1) [^{F8}Without prejudice to the generality of Article 3(1) of the Employment (Miscellaneous Provisions) (Northern Ireland) Order 1990,] nothing in any licence granted under this Schedule (whether before or after the commencement of Article 13 of the Sex Discrimination (Northern Ireland) Order 1988) shall have effect at any time after the said commencement so as to require any person to do any act which,^{F8} . . . is rendered unlawful by Part III of the 1976 Order (discrimination in relation to employment) or by so much of Part V of the 1976 Order as relates to acts rendered unlawful by Part III of the 1976 Order.

(2) In this paragraph—

“act” has the same meaning as in the 1976 Order; and

“the 1976 Order” means the Sex Discrimination (Northern Ireland) Order 1976.

F8 1990 NI 2

Interpretation

17. In this Schedule—

(a) “the appropriate sub-divisional commander” in relation to an entertainments licence for any place, means the sub-divisional commander of the Royal Ulster Constabulary acting for the police sub-division in which that place is situated;

“educational institution” has the same meaning as in [^{F9} Article 26 of the Planning (Northern Ireland) Order 1991];

“an entertainments licence” means a licence granted under paragraph 3;

“the Fire Authority” means the Fire Authority for Northern Ireland;

“pleasure fair” has the same meaning as in Article 67 of the Pollution Control and Local Government (Northern Ireland) Order 1978;

(b) references to an entertainment to which paragraph 1 applies shall be construed in accordance with paragraph 1(8).]

F9 1991 NI 11

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Changes to legislation:

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