

SCHEDULES

SCHEDULE 4

Section 11(2).

REGISTRATION OF MEMBERS' CLUBS UNDER PART II IN SCOTLAND

Introductory

- 1 (1) The sheriff shall, in respect of premises in Scotland within his jurisdiction, be the authority responsible for the registration of clubs and institutes under Part II of this Act and for the renewal and cancellation of any such registration.
- (2) In this Schedule, " institute " means a miners' welfare institute.
- 2 (1) Any provision of Schedule 2 to this Act containing a reference to the licensing authority, the clerk to the licensing authority and a newspaper circulating in the authority's area shall, when applied by any provision of this Schedule, be construed respectively as a reference to the sheriff, the sheriff clerk and a newspaper circulating within the jurisdiction of the sheriff.
- (2) In this Schedule—
- " the appropriate chief constable " means the chief constable for the police area in which the relevant premises are situated ;
- " the appropriate collector of duty " means the Collector of Customs and Excise for the area in which the relevant premises are situated ;
- " the relevant premises ", in relation to registration under Part II of this Act or to an application relating to such registration, means the premises in respect of which a club or institute is for the time being registered under that Part or the premises to which the application relates, as the case may be.

Application for registration

- 3 (1) An application for the registration of a club or institute in Scotland under Part II of this Act may be made at any time, and shall be made to the sheriff clerk in such form and manner as may be prescribed.
- (2) Any such application shall specify the name, objects and address of the club or institute to which it relates and the premises in respect of which it is proposed that the club or institute should be registered, and shall contain such other particulars as may be prescribed.
- (3) Not later than seven days after the date on which the application is made, the applicant shall send a copy of the application to the Board, the appropriate chief constable and to the appropriate collector of duty.
- 4 Paragraph 10 of Schedule 2 to this Act shall have effect in relation to any such application as it has effect in relation to applications for the grant of licences under this Act but as if in sub-paragraph (2) the words from " shall indicate " to " other than a bingo club licence ", and sub-paragraph (3), were omitted.

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- 5 (1) Not later than seven days after the publication of the newspaper containing the advertisement required by paragraph 10 of Schedule 2 to this Act as it has effect by virtue of the last foregoing paragraph, the applicant shall send a copy of that newspaper to the sheriff clerk ; and the sheriff shall not consider the application earlier than fourteen days after the date specified in the advertisement.
- (2) On or after the date so specified, but not later than seven days before the date appointed for the consideration of the application the sheriff clerk shall send to the applicant a copy of any objection to the proposed registration which he has received and which has not been withdrawn.

Application for renewal of registration

- 6 (1) Not later than six weeks before the date of expiry of the registration of a club or institute in Scotland under Part II of this Act, the sheriff clerk shall, unless an application for renewal of the registration has already been received by him, serve notice on the chairman or secretary of that club or institute that the registration will expire on that date unless an application for its renewal is made in accordance with this Schedule.
- (2) At the same time as serving notice on the chairman or secretary of the club or institute under the foregoing sub-paragraph, the sheriff clerk shall cause to be published in a newspaper circulating within the jurisdiction of the sheriff an advertisement stating that the registration of the club will shortly expire and that any person who desires to object to its renewal should send to the sheriff clerk, before such date (not being earlier than fourteen days after the publication of the advertisement) as may be specified therein, two copies of a brief statement in writing of the grounds of his objection.
- (3) A notice served under sub-paragraph (1) of this paragraph shall state that any application for renewal of the registration must be received by the sheriff clerk before such date (not being earlier than fourteen days after the service of the notice) as may be specified in the notice.
- 7 (1) Any application for renewal of the registration of a club or institute in Scotland under Part II of this Act shall be made to the sheriff clerk and (subject to sub-paragraph (3) of this paragraph) shall be made before the date specified as mentioned in paragraph 6(3) of this Schedule, and shall be made in such form and manner, and shall contain such particulars, as may be prescribed.
- (2) Not less than seven days before the date appointed for the consideration of applications for renewal of registration of clubs and institutes in Scotland under Part II of this Act, the sheriff clerk—
- (a) if he has received from any person an objection in writing to renewal of the registration of a particular club or institute, and that objection has not been withdrawn, and the address of that person is known to the clerk, shall send to that person a notice stating whether an application for renewal of the registration of that club or institute has been made or not, and
 - (b) shall send to the person by whom any application for renewal of the registration of a club or institute under Part II of this Act has been duly made to the sheriff a copy of any objection to the renewal which the clerk has received and which has not been withdrawn.

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- (3) The sheriff may in any particular case entertain an application for renewal of registration under Part II of this Act which is made after the date referred to in sub-paragraph (1) of this paragraph if—
- (a) he is satisfied that the failure to make the application before that date was due to inadvertence ; and
 - (b) the application is made before the end of such extended period as the sheriff may in that case allow.

Proceedings on application for registration or renewal of registration

- 8 Paragraphs 14 to 16 of Schedule 2 to this Act shall have effect in relation to any application for registration or renewal of registration of a club or institute in Scotland under Part II of this Act as they have effect in relation to applications for the grant or renewal of licences under this Act, but as if in paragraph 14 of that Schedule—
- (a) in sub-paragraph (1), for the words from " the beginning " to the end there were substituted the words " the day on which the sheriff considers the application. ";
 - (b) in sub-paragraph (2), the references to the appropriate local authority and the appropriate fire authority were omitted.

Grounds for refusal to register or to renew registration

- 9 (1) The sheriff shall refuse to register or to renew the registration of a club in Scotland under Part II of this Act if it appears to the sheriff that the club—
- (a) is not a bona fide members' club, or
 - (b) has less than twenty-five members, or
 - (c) is of a merely temporary character.
- (2) Without prejudice to the preceding sub-paragraph, the sheriff shall refuse to register a club or to renew the registration of a club under Part II of this Act if it appears to the sheriff that the principal purpose for which the club is established or conducted is gaming, unless the sheriff is satisfied that the gaming in question consists exclusively of playing bridge or whist, or both bridge and whist.
- 10 The sheriff may refuse to register a club or institute under Part II of this Act where the club or institute has previously been so registered and either—
- (a) its registration has been cancelled, or
 - (b) an application for renewal of that registration has been refused.
- 11 The sheriff may refuse to renew the registration of a club or institute under Part II of this Act on any one or more of the following grounds, in addition to those specified in paragraph 9 of this Schedule, that is to say—
- (a) that a person has been convicted of an offence under this Act in respect of a contravention, in connection with the relevant premises, of any of the provisions of this Act or of any regulations made thereunder ;
 - (b) that, while the club or institute has been registered under Part II of this Act the relevant premises have not been so conducted as to prevent disturbance or disorder;
 - (c) that, while the club or institute has been so registered, gaming on the relevant premises has been dishonestly conducted ;

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- (d) that, while the club or institute has been so registered, the relevant premises have been used for an unlawful purpose or as a resort of criminals or prostitutes ;
- (e) that any duty payable in respect of the premises under section 13 or section 14 of the Finance Act 1966 remains unpaid.

12 The sheriff shall refuse to renew the registration of a club under Part II of this Act if he is satisfied that, while the club has been registered thereunder, the relevant premises have been habitually used for an unlawful purpose or as a resort of criminals or prostitutes.

Restrictions attached to registration

- 13 (1) On registering or renewing the registration of a club or institute under Part II of this Act, the sheriff may, if he thinks fit, impose restrictions limiting the gaming to a particular part or parts of the relevant premises.
- (2) Any restrictions imposed under the preceding sub-paragraph shall be imposed so as to have effect until the registration of the club or institute under Part II of this Act ceases to have effect or is next renewed (whichever first occurs), but without prejudice, where the registration is renewed, to any power of the sheriff under the preceding sub-paragraph to impose the like or any other restrictions on renewing the registration.

Cancellation of registration

- 14 Paragraphs 36 to 38 and 41 to 43 of Schedule 2 to this Act shall have effect in relation to cancellation of the registration of a club or institute in Scotland under Part II of this Act as they have effect in relation to cancellation of a licence under this Act, but as if—
- (a) any reference to the holder of the licence were a reference to the chairman or secretary of the club or institute ;
 - (b) in paragraph 36 of that Schedule, sub-paragraphs (3), (4) and (5) were omitted ;
 - (c) in paragraph 38 thereof, for the words from the beginning to " application " there were substituted the words " On the consideration of the application by the sheriff ";
 - (d) in paragraph 42 thereof, the reference to the grounds specified in paragraphs 20 and 21 thereof were a reference to the grounds specified in paragraph 11 of this Schedule.
- 15 (1) Where a person is convicted of an offence under Schedule 3 to the Finance Act 1966 in respect of a contravention of section 13 or section 14 of that Act in relation to premises in respect of which a club or institute in Scotland is for the time being registered under Part II of this Act, 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 while that club or institute has been so registered, and
 - (b) apply to the court for effect to be given to this sub-paragraph,
- that court shall order that the registration of the club or institute under Part II of this Act shall be cancelled.

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- (2) An order made under this paragraph—
 - (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) Where the registration of a club or institute is cancelled by virtue of an order made under this paragraph, the sheriff shall, notwithstanding anything in the preceding provisions of this Schedule, refuse any application for the registration of that club or institute under Part II of 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.

Issue and duration of registration certificates

- 16 (1) Where on an application under this Schedule a club or institute is registered, or the registration of a club or institute is renewed, under Part II of this Act, the sheriff shall issue to the applicant a certificate (in this Schedule referred to as a " registration certificate ") which shall be in the prescribed form.
- (2) If the registration or any renewal of the registration of a club or institute is subject to any restrictions imposed under paragraph 13 of this Schedule, the registration certificate shall include a statement of those restrictions.
- 17 (1) Subject to the following provisions of this Schedule, and without prejudice to the provisions of this Schedule as to cancellation, the registration of a club or institute in Scotland under Part II of this Act—
 - (a) if not renewed, shall cease to have effect at the end of the month of December in the year following that in which it was effected, or
 - (b) if renewed, shall, unless further renewed, cease to have effect at the end of the period for which it was renewed or last renewed, as the case may be.
- (2) In the application of sub-paragraph (1)(a) of this paragraph to a club or institute which, on the date on which section 1 of this Act comes into operation, is for the time being registered under Part II of this Act, for the reference to the month of December therein mentioned there shall be substituted a reference to the first month of December following the first anniversary of that date.
- 18 (1) An application for renewal of the registration of a club or institute in Scotland under Part II of this Act may specify a number of years, not exceeding ten, for which the renewal is requested ; and any renewal of the registration shall be for such number of years, not exceeding the number specified in the application, as the sheriff thinks fit.
- (2) Except as provided by the preceding sub-paragraph, any renewal of the registration shall be for a period of one year.
- 19 (1) Where the registration of a club or institute in Scotland under Part II of this Act has been renewed for a period of two or more years, and is subject to any restriction imposed under paragraph 13 of this Schedule, then, with a view to the cancellation or variation of those restrictions, an application for renewal of the registration may be made in any of those years, notwithstanding that the registration is not due to expire in that year.

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- (2) On any application made by virtue of this paragraph the registration may be renewed as if it were due to expire at the end of the month of December in that year.
- 20 Where an application for renewal of the registration of a club or institute in Scotland under Part II of this Act has been duly made, the registration shall not cease to have effect by virtue of paragraph 17 of this Schedule until the sheriff has determined the application.

No appeal against determination of sheriff

- 21 The determination of the sheriff on an application under this Schedule for registration or renewal or cancellation of registration of a club or institute under Part II of this Act shall be final, and in his determination the sheriff may include such order as to the expenses of the application as he thinks proper.

Payment of fees

- 22 Notwithstanding anything in the preceding provisions of this Schedule, a club or institute in Scotland shall not be registered under Part II of this Act, and the registration of a club or institute thereunder shall not be renewed, except on payment by the applicant to the sheriff clerk of the fee chargeable in accordance with section 48 of this Act.

Relinquishment of registration

- 23 (1) A club or institute registered under Part II of this Act may at any time relinquish its registration by notice given to the sheriff clerk by the chairman or secretary of the club or institute ; and, where such a notice is given, the registration of the club or institute under Part II of this Act shall thereupon be treated as cancelled.
- (2) Where the registration of a club or institute is relinquished under this paragraph, the sheriff clerk shall give notice of that fact to the Board, the appropriate chief constable and the appropriate collector of duty.