

## SCHEDULES

### SCHEDULE 5

Section 181

#### APPEALS

#### PART 1

#### PREMISES LICENCES

##### *Rejection of applications relating to premises licences*

- 1 Where a licensing authority—
- (a) rejects an application for a premises licence under section 18,
  - (b) rejects (in whole or in part) an application to vary a premises licence under section 35,
  - (c) rejects an application to vary a premises licence to specify an individual as the premises supervisor under section 39, or
  - (d) rejects an application to transfer a premises licence under section 44,
- the applicant may appeal against the decision.

##### *Decision to grant premises licence or impose conditions etc.*

- 2 (1) This paragraph applies where a licensing authority grants a premises licence under section 18.
- (2) The holder of the licence may appeal against any decision—
- (a) to impose conditions on the licence under subsection (2)(a) or (3)(b) of that section, or
  - (b) to take any step mentioned in subsection (4)(b) or (c) of that section (exclusion of licensable activity or refusal to specify person as premises supervisor).
- (3) Where a person who made relevant representations in relation to the application desires to contend—
- (a) that the licence ought not to have been granted, or
  - (b) that, on granting the licence, the licensing authority ought to have imposed different or additional conditions, or to have taken a step mentioned in subsection (4)(b) or (c) of that section,
- he may appeal against the decision.
- (4) In sub-paragraph (3) “relevant representations” has the meaning given in section 18(6).

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#### *Issue of provisional statement*

- 3 (1) This paragraph applies where a provisional statement is issued under subsection (3) (c) of section 31.
- (2) An appeal against the decision may be made by—
- (a) the applicant, or
  - (b) any person who made relevant representations in relation to the application.
- (3) In sub-paragraph (2) “relevant representations” has the meaning given in subsection (5) of that section.

#### *Variation of licence under section 35*

- 4 (1) This paragraph applies where an application to vary a premises licence is granted (in whole or in part) under section 35.
- (2) The applicant may appeal against any decision to modify the conditions of the licence under subsection (4)(a) of that section.
- (3) Where a person who made relevant representations in relation to the application desires to contend—
- (a) that any variation made ought not to have been made, or
  - (b) that, when varying the licence, the licensing authority ought not to have modified the conditions of the licence, or ought to have modified them in a different way, under subsection (4)(a) of that section,
- he may appeal against the decision.
- (4) In sub-paragraph (3) “relevant representations” has the meaning given in section 35(5).

#### *Variation of licence to specify individual as premises supervisor*

- 5 (1) This paragraph applies where an application to vary a premises licence is granted under section 39(2) in a case where a chief officer of police gave a notice under section 37(5) (which was not withdrawn).
- (2) The chief officer of police may appeal against the decision to grant the application.

#### *Transfer of licence*

- 6 (1) This paragraph applies where an application to transfer a premises licence is granted under section 44 in a case where a chief officer of police gave a notice under section 42(6) (which was not withdrawn).
- (2) The chief officer of police may appeal against the decision to grant the application.

#### *Interim authority notice*

- 7 (1) This paragraph applies where—
- (a) an interim authority notice is given in accordance with section 47, and
  - (b) a chief officer of police gives a notice under section 48(2) (which is not withdrawn).

- (2) Where the relevant licensing authority decides to cancel the interim authority notice under subsection (3) of section 48, the person who gave the interim authority notice may appeal against that decision.
- (3) Where the relevant licensing authority decides not to cancel the notice under that subsection, the chief officer of police may appeal against that decision.
- (4) Where an appeal is brought under sub-paragraph (2), the court to which it is brought may, on such terms as it thinks fit, order the reinstatement of the interim authority notice pending—
  - (a) the disposal of the appeal, or
  - (b) the expiry of the interim authority period,whichever first occurs.
- (5) Where the court makes an order under sub-paragraph (4), the premises licence is reinstated from the time the order is made, and section 47 has effect in a case where the appeal is dismissed or abandoned before the end of the interim authority period as if—
  - (a) the reference in subsection (7)(b) to the end of the interim authority period were a reference to the time when the appeal is dismissed or abandoned, and
  - (b) the reference in subsection (9)(a) to the interim authority period were a reference to that period disregarding the part of it which falls after that time.
- (6) In this paragraph “interim authority period” has the same meaning as in section 47.

#### *Review of premises licence*

- 8
- (1) This paragraph applies where an application for a review of a premises licence is decided under section 52.
  - (2) An appeal may be made against that decision by—
    - (a) the applicant for the review,
    - (b) the holder of the premises licence, or
    - (c) any other person who made relevant representations in relation to the application.
  - (3) In sub-paragraph (2) “relevant representations” has the meaning given in section 52(7).

#### *General provision about appeals under this Part*

- 9
- (1) An appeal under this Part must be made to the magistrates' court for the petty sessions area (or any such area) in which the premises concerned are situated.
  - (2) An appeal under this Part must be commenced by notice of appeal given by the appellant to the justices' chief executive for the magistrates' court within the period of 21 days beginning with the day on which the appellant was notified by the licensing authority of the decision appealed against.
  - (3) On an appeal under paragraph 2(3), 3(2)(b), 4(3), 5(2), 6(2) or 8(2)(a) or (c), the holder of the premises licence is to be the respondent in addition to the licensing authority.

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- (4) On an appeal under paragraph 7(3), the person who gave the interim authority notice is to be the respondent in addition to the licensing authority.

## PART 2

### CLUB PREMISES CERTIFICATES

#### *Rejection of applications relating to club premises certificates*

- 10 Where a licensing authority—
- (a) rejects an application for a club premises certificate under section 72, or
  - (b) rejects (in whole or in part) an application to vary a club premises certificate under section 85,
- the club that made the application may appeal against the decision.

#### *Decision to grant club premises certificate or impose conditions etc.*

- 11 (1) This paragraph applies where a licensing authority grants a club premises certificate under section 72.
- (2) The club holding the certificate may appeal against any decision—
- (a) to impose conditions on the certificate under subsection (2) or (3)(b) of that section, or
  - (b) to take any step mentioned in subsection (4)(b) of that section (exclusion of qualifying club activity).
- (3) Where a person who made relevant representations in relation to the application desires to contend—
- (a) that the certificate ought not to have been granted, or
  - (b) that, on granting the certificate, the licensing authority ought to have imposed different or additional conditions, or to have taken a step mentioned in subsection (4)(b) of that section,
- he may appeal against the decision.
- (4) In sub-paragraph (3) “relevant representations” has the meaning given in section 72(7).

#### *Variation of club premises certificate*

- 12 (1) This paragraph applies where an application to vary a club premises certificate is granted (in whole or in part) under section 85.
- (2) The club may appeal against any decision to modify the conditions of the certificate under subsection (3)(b) of that section.
- (3) Where a person who made relevant representations in relation to the application desires to contend—
- (a) that any variation ought not to have been made, or
  - (b) that, when varying the certificate, the licensing authority ought not to have modified the conditions of the certificate, or ought to have modified them in a different way, under subsection (3)(b) of that section,

he may appeal against the decision.

- (4) In sub-paragraph (3) “relevant representations” has the meaning given in section 85(5).

#### *Review of club premises certificate*

- 13 (1) This paragraph applies where an application for a review of a club premises certificate is decided under section 88.
- (2) An appeal may be made against that decision by—
- (a) the applicant for the review,
  - (b) the club that holds or held the club premises certificate, or
  - (c) any other person who made relevant representations in relation to the application.
- (3) In sub-paragraph (2) “relevant representations” has the meaning given in section 88(7).

#### *Withdrawal of club premises certificate*

- 14 Where the relevant licensing authority gives notice withdrawing a club premises certificate under section 90, the club which holds or held the certificate may appeal against the decision to withdraw it.

#### *General provision about appeals under this Part*

- 15 (1) An appeal under this Part must be made to the magistrates' court for the petty sessions area (or any such area) in which the premises concerned are situated.
- (2) An appeal under this Part must be commenced by notice of appeal given by the appellant to the justices' chief executive for the magistrates' court within the period of 21 days beginning with the day on which the appellant was notified by the licensing authority of the decision appealed against.
- (3) On an appeal under paragraph 11(3), 12(3) or 13(2)(a) or (c), the club that holds or held the club premises certificate is to be the respondent in addition to the licensing authority.

### **PART 3**

#### **OTHER APPEALS**

#### *Temporary event notices*

- 16 (1) This paragraph applies where—
- (a) a temporary event notice is given under section 100, and
  - (b) a chief officer of police gives an objection notice in accordance with section 104(2).
- (2) Where the relevant licensing authority gives a counter notice under section 105(3), the premises user may appeal against that decision.

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- (3) Where that authority decides not to give such a counter notice, the chief officer of police may appeal against that decision.
- (4) An appeal under this paragraph must be made to the magistrates' court for the petty sessions area (or any such area) in which the premises concerned are situated.
- (5) An appeal under this paragraph must be commenced by notice of appeal given by the appellant to the justices' chief executive for the magistrates' court within the period of 21 days beginning with the day on which the appellant was notified by the licensing authority of the decision appealed against.
- (6) But no appeal may be brought later than five working days before the day on which the event period specified in the temporary event notice begins.
- (7) On an appeal under sub-paragraph (3), the premises user is to be the respondent in addition to the licensing authority.
- (8) In this paragraph—
  - “objection notice” has the same meaning as in section 104; and
  - “relevant licensing authority” has the meaning given in section 99.

#### *Personal licences*

- 17 (1) Where a licensing authority—
- (a) rejects an application for the grant of a personal licence under section 120, or
  - (b) rejects an application for the renewal of a personal licence under section 121,
- the applicant may appeal against that decision.
- (2) Where a licensing authority grants an application for a personal licence under section 120(7), the chief officer of police who gave the objection notice (within the meaning of section 120(5)) may appeal against that decision.
  - (3) Where a licensing authority grants an application for the renewal of a personal licence under section 121(6), the chief officer of police who gave the objection notice (within the meaning of section 121(3)) may appeal against that decision.
  - (4) Where a licensing authority revokes a personal licence under section 124(4), the holder of the licence may appeal against that decision.
  - (5) Where in a case to which section 124 (convictions coming to light after grant or renewal) applies—
    - (a) the chief officer of police for the licensing authority's area gives a notice under subsection (3) of that section (and does not later withdraw it), and
    - (b) the licensing authority decides not to revoke the licence,
 the chief officer of police may appeal against the decision.
  - (6) An appeal under this paragraph must be made to the magistrates' court for a petty sessions area in which the licensing authority's area (or any part of it) is situated.
  - (7) An appeal under this paragraph must be commenced by notice of appeal given by the appellant to the justices' chief executive for the magistrates' court within the period of 21 days beginning with the day on which the appellant was notified by the licensing authority of the decision appealed against.

- (8) On an appeal under sub-paragraph (2), (3) or (5), the holder of the personal licence is to be the respondent in addition to the licensing authority.
- (9) Sub-paragraph (10) applies where the holder of a personal licence gives notice of appeal against a decision of a licensing authority to refuse to renew it.
- (10) The relevant licensing authority, or the magistrates' court to which the appeal has been made, may, on such conditions as it thinks fit—
  - (a) order that the licence is to continue in force until the relevant time, if it would otherwise cease to have effect before that time, or
  - (b) where the licence has already ceased to have effect, order its reinstatement until the relevant time.
- (11) In sub-paragraph (10) “the relevant time” means—
  - (a) the time the appeal is dismissed or abandoned, or
  - (b) where the appeal is allowed, the time the licence is renewed.

#### *Closure orders*

- 18 (1) This paragraph applies where, on a review of a premises licence under section 167, the relevant licensing authority decides under subsection (5)(b) of that section—
- (a) to take any of the steps mentioned in subsection (6) of that section, in relation to a premises licence for those premises, or
  - (b) not to take any such step.
- (2) An appeal may be made against that decision by—
- (a) the holder of the premises licence, or
  - (b) any other person who made relevant representations in relation to the review.
- (3) Where an appeal is made under this paragraph against a decision to take any of the steps mentioned in section 167(6)(a) to (d) (modification of licence conditions etc.), the appropriate magistrates' court may in a case within section 168(3) (premises closed when decision taken)—
- (a) if the relevant licensing authority has not made an order under section 168(5) (order suspending operation of decision in whole or part), make any order under section 168(5) that could have been made by the relevant licensing authority, or
  - (b) if the authority has made such an order, cancel it or substitute for it any order which could have been made by the authority under section 168(5).
- (4) Where an appeal is made under this paragraph in a case within section 168(6) (premises closed when decision to revoke made to remain closed pending appeal), the appropriate magistrates court may, on such conditions as it thinks fit, order that section 168(7) (premises to remain closed pending appeal) is not to apply to the premises.
- (5) An appeal under this paragraph must be commenced by notice of appeal given by the appellant to the justices' chief executive for the magistrates' court within the period of 21 days beginning with the day on which the appellant was notified by the relevant licensing authority of the decision appealed against.

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- (6) On an appeal under this paragraph by a person other than the holder of the premises licence, that holder is to be the respondent in addition to the licensing authority that made the decision.
- (7) In this paragraph—
- “appropriate magistrates' court” means the magistrates court for the petty sessions area (or any such area) in which the premises concerned are situated;
  - “relevant licensing authority” has the same meaning as in Part 3 of this Act; and
  - “relevant representations” has the meaning given in section 167(9).