

SCHEDULES

SCHEDULE 8

TRANSITIONAL PROVISION ETC.

PART 1

PREMISES LICENCES

Introductory

1 (1) In this Part—

“canteen licence” has the same meaning as in section 148 of the 1964 Act (licences for seamen’s canteens);

“children’s certificate” has the same meaning as in section 168A of that Act;

“existing licence” means—

- (a) a justices' licence,
- (b) a canteen licence,
- (c) a licence under Schedule 12 to the London Government Act 1963 (c. 33) (licensing of public entertainment in Greater London),
- (d) a licence under the Private Places of Entertainment (Licensing) Act 1967 (c. 19),
- (e) a licence under the Theatres Act 1968 (c. 54),
- (f) a licence under the Late Night Refreshment Houses Act 1969 (c. 53),
- (g) a licence under Schedule 1 to the Local Government (Miscellaneous Provisions) Act 1982 (c. 30) (licensing of public entertainments outside Greater London),
- (h) a licence under section 1 of the Cinemas Act 1985 (c. 13), or
- (i) a licence under Part 2 of the London Local Authorities Act 1990 (c. vii) (night cafe licensing);

“existing licensable activities”, under an existing licence, are—

- (a) the licensable activities authorised by the licence, and
- (b) any other licensable activities which may be carried on, at the premises in respect of which the licence has effect, by virtue of the existence of the licence (see sub-paragraph (2));

“first appointed day” means such day as may be specified as the first appointed day for the purposes of this Part;

“new licence” has the meaning given in paragraph 5(1);

“relevant existing licence”, in relation to an application under paragraph 2, means an existing licence to which the application relates;

“relevant licensing authority” has the same meaning as in Part 3 of this Act (premises licences);

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“second appointed day” means such day as may be specified as the second appointed day for the purposes of this Part; and

“supply of alcohol” means—

- (a) sale by retail of alcohol, or
- (b) supply of alcohol by or on behalf of a club to, or to the order of, a member of the club.

- (2) In determining, for the purposes of paragraph (b) of the definition of “existing licensable activities”, the other licensable activities which may be carried on by virtue of a licence—
 - (a) section 182 of the 1964 Act (relaxation of law relating to music and dancing licences) is to be disregarded so far as it relates to public entertainment by way of music and singing provided by not more than two performers, and
 - (b) in the case of an existing licence granted under the Theatres Act 1968 (c. 54), the reference in that paragraph to the licence is to be read as including a reference to any notice in force under section 199(c) of the 1964 Act (notice of intention to sell alcohol by retail at licensed theatre premises) in relation to that licence.
- (3) In the application of section 12 (relevant licensing authority in Part 3 of this Act) for the purposes of this Part, the reference in subsection (4)(a) of that section to an applicant for a premises licence is to be read as a reference to an applicant under paragraph 2 for the grant of a licence under paragraph 4.

Application for conversion of existing licence

- 2 (1) This paragraph applies where, in respect of any premises, one or more existing licences have effect on the first appointed day.
- (2) A person may, within the period of six months beginning with the first appointed day, apply to the relevant licensing authority for the grant of a licence under paragraph 4 to succeed one or more of those existing licences.
- (3) But an application may be made under this paragraph in respect of an existing licence only if—
 - (a) it is held by the applicant, or
 - (b) the holder of the licence consents to the application being made.
- (4) An application under this paragraph must specify—
 - (a) the existing licensable activities under the relevant existing licence or, if there is more than one, the relevant existing licences,
 - (b) if any relevant existing licence authorises the supply of alcohol, specified information about the person whom the applicant wishes to be the premises supervisor under the licence granted under paragraph 4, and
 - (c) such other information as may be specified.
- (5) The application must also be in the specified form and accompanied by—
 - (a) the relevant documents, and
 - (b) the specified fee.
- (6) The relevant documents are—
 - (a) the relevant existing licence or, if there is more than one, each of them (or a certified copy of the licence or licences in question),

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- (b) a plan in the specified form of the premises to which the relevant existing licence or licences relate,
 - (c) if any relevant existing licence authorises the supply of alcohol, any children's certificate in force in respect of the premises (or a certified copy of any such certificate),
 - (d) a form of consent in the specified form, given by the individual (if any) named in the application in accordance with sub-paragraph (4)(b),
 - (e) a form of consent in the specified form, given by any person who is required to consent to the application under sub-paragraph (3), and
 - (f) such other documents as may be specified.
- (7) In this paragraph any reference to a certified copy of a document is a reference to a copy of that document certified to be a true copy—
- (a) in the case of a justices' licence, children's certificate or canteen licence, by the chief executive of the licensing justices for the licensing district in which the premises are situated,
 - (b) in any other case, by the chief executive of the local authority which issued the licence,
 - (c) by a solicitor or notary, or
 - (d) by a person of a specified description.
- (8) A document which purports to be a certified copy of an existing licence or children's certificate is to be taken to be such a copy unless the contrary is shown.

Police consultation

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- (1) Where a person makes an application under paragraph 2, he must give a copy of the application (and any documents which accompanied it) to the chief officer of police for the police area (or each police area) in which the premises are situated no later than 48 hours after the application is made.
 - (2) Where—
 - (a) an appeal is pending against a decision to revoke, or to reject an application for the renewal of, the relevant existing licence or, if there is more than one such licence, a relevant existing licence, and
 - (b) a chief officer of police who has received a copy of the application under sub-paragraph (1) is satisfied that converting that existing licence in accordance with this Part would undermine the crime prevention objective,he must give the relevant licensing authority and the applicant a notice to that effect.
 - (3) Where a chief officer of police who has received a copy of an application under sub-paragraph (1) is satisfied that, because of a material change in circumstances since the relevant time, converting the relevant existing licence or, if there is more than one such licence, a relevant existing licence in accordance with this Part would undermine the crime prevention objective, he must give the relevant licensing authority and the applicant a notice to that effect.
 - (4) For this purpose “relevant time” means the time when the relevant existing licence was granted or, if it has been renewed, the last time it was renewed.
 - (5) The chief officer of police may not give a notice under sub-paragraph (2) or (3) after the end of the period of 28 days beginning with the day on which he received a copy of the application under sub-paragraph (1).

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Determination of application

- 4 (1) This paragraph applies where an application is made in accordance with paragraph 2 and the applicant complies with paragraph 3(1).
- (2) Subject to sub-paragraphs (3) and (5), the relevant licensing authority must grant the application.
- (3) Where a notice is given under paragraph 3(2) or (3) in respect of an existing licence (and not withdrawn), the authority must—
- (a) hold a hearing to consider it, unless the authority, the applicant and the chief officer of police who gave the notice agree that a hearing is unnecessary, and
 - (b) having regard to the notice—
 - (i) in a case where the application relates only to that licence, reject the application, and
 - (ii) in any other case, reject the application to the extent that it relates to that licence,if it considers it necessary for the promotion of the crime prevention objective to do so.
- (4) If the relevant licensing authority fails to determine the application within the period of two months beginning with the day on which it received it, then, subject to sub-paragraph (5), the application is to be treated as granted by the authority under this paragraph.
- (5) An application must not be granted (and is not to be treated as granted under sub-paragraph (4))—
- (a) if the relevant existing licence has or, if there is more than one, all the relevant existing licences have ceased to be held by the applicant before the relevant time, or
 - (b) where there is more than one relevant existing licence (but paragraph (a) does not apply), to the extent that the application relates to an existing licence which has ceased to be held by the applicant before the relevant time.
- (6) For the purposes of sub-paragraph (5)—
- (a) where, for the purposes of paragraph 2(3)(b) a person has consented to an application being made in respect of a relevant existing licence, sub-paragraph (5)(a) and (b) applies in relation to that licence as if the reference to the applicant were a reference to—
 - (i) that person, or
 - (ii) any other person to whom the existing licence has been transferred and who has given his consent for the purposes of this paragraph, and
 - (b) “the relevant time” is the time of the determination of the application or, in a case within sub-paragraph (4), the end of the period mentioned in that sub-paragraph.
- (7) Section 10 applies as if the relevant licensing authority’s functions under sub-paragraph (3) were included in the list of functions in subsection (4) of that section (functions which cannot be delegated to an officer of the licensing authority).

Notification of determination and issue of new licence

- 5 (1) Where an application is granted (in whole or in part) under paragraph 4, the relevant licensing authority must forthwith—
- (a) give the applicant a notice to that effect, and
 - (b) issue the applicant with—
 - (i) a licence in respect of the premises (a “new licence”) in accordance with paragraph 6, and
 - (ii) a summary of the new licence.
- (2) Where an application is rejected (in whole or in part) under paragraph 4, the relevant licensing authority must forthwith give the applicant a notice to that effect stating the authority’s reasons for its decision to reject the application.
- (3) The relevant licensing authority must give a copy of any notice it gives under subparagraph (1) or (2) to the chief officer of police for the police area (or each police area) in which the premises to which the notice relates are situated.

The new licence

- 6 (1) This paragraph applies where a new licence is granted under paragraph 4 in respect of one or more existing licences.
- (2) Where an application under paragraph 2 is granted in part only, any relevant existing licence in respect of which the application was rejected is to be disregarded for the purposes of the following provisions of this paragraph.
- (3) The new licence is to be treated as if it were a premises licence (see section 11), and sections 19, 20 and 21 (mandatory conditions for premises licences) apply in relation to it accordingly.
- (4) The new licence takes effect on the second appointed day.
- (5) The new licence must authorise the premises in question to be used for the existing licensable activities under the relevant existing licence or, if there is more than one relevant existing licence, the relevant existing licences.
- (6) Subject to sections 19, 20 and 21 and the remaining provisions of this paragraph, the new licence must be granted subject to such conditions as reproduce the effect of—
- (a) the conditions subject to which the relevant existing licence has effect at the time the application is granted, or
 - (b) if there is more than one relevant existing licence, all the conditions subject to which those licences have effect at that time.
- (7) Where the new licence authorises the supply of alcohol, the new licence must designate the person named in the application under paragraph 2(4)(b) as the premises supervisor.
- (8) The new licence must also be granted subject to conditions which reproduce the effect of any restriction imposed on the use of the premises for the existing licensable activities under the relevant existing licence or licences by any enactment specified for the purposes of this Part.
- (9) In determining those restrictions, the relevant licensing authority must have regard to any children’s certificate which accompanied (or a certified copy of which accompanied) the application and which remains in force.

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- (10) Nothing in sub-paragraph (6) or (8) requires the new licence to be granted for a limited period.
- (11) But, where the application under paragraph 2 includes a request for the new licence to have effect for a limited period, the new licence is to be granted subject to that condition.

Variation of new licence

- 7 (1) A person who makes an application under paragraph 2 may (notwithstanding that no licence has yet been granted in consequence of that application) at the same time apply—
 - (a) under section 37 for any licence so granted to be varied so as to specify the individual named in the application as the premises supervisor, or
 - (b) under section 34 for any other variation of any such licence,
 and for the purposes of an application within paragraph (a) or (b) the applicant is to be treated as the holder of that licence.
- (2) In relation to an application within sub-paragraph (1)(a) or (b), the relevant licensing authority may discharge its functions under section 35 or 39 only if, and when, the application under paragraph 2 has been granted.
- (3) Where an application within sub-paragraph (1)(a) or (b) is not determined by the relevant licensing authority within the period of two months beginning with the day the application was received by the authority, it is to be treated as having been rejected by the authority under section 35 or 39 (as the case may be) at the end of that period.

Existing licence revoked after grant of new licence

- 8 (1) This paragraph applies where the relevant licensing authority grants a new licence under this Part in respect of one or more existing licences.
- (2) If sub-paragraph (4) applies to the existing licence (or each of the existing licences) which the new licence succeeds, the new licence lapses.
- (3) If—
 - (a) where the new licence relates to more than one relevant existing licence, sub-paragraph (4) applies to one or more, but not all, of those licences, or
 - (b) sub-paragraph (4) applies to a children’s certificate in respect of the premises,
 the licensing authority must amend the new licence so as to remove from it any provision which would not have been included in it but for the existence of any existing licence or certificate to which sub-paragraph (4) applies.
- (4) This sub-paragraph applies to an existing licence or children’s certificate if—
 - (a) it is revoked before the second appointed day, or
 - (b) where an appeal against a decision to revoke it is pending immediately before that day, the appeal is dismissed or abandoned.
- (5) Any amendment under sub-paragraph (3) takes effect when it is notified to the holder of the new licence by the relevant licensing authority.

- (6) The relevant licensing authority must give a copy of any notice under sub-paragraph (5) to the chief officer of police for the police area (or each police area) in which the premises to which the new licence relates are situated.

Appeals

- 9 (1) Where an application under paragraph 2 is rejected (in whole or in part) by the relevant licensing authority, the applicant may appeal against that decision.
- (2) Where a licensing authority grants such an application (in whole or in part), any chief officer of police who gave a notice in relation to it under paragraph 3(2) or (3) (that was not withdrawn) may appeal against that decision.
- (3) Where a licence is amended under paragraph 8, the holder of the licence may appeal against that decision.
- (4) Section 181 and paragraph 9(1) and (2) of Schedule 5 (general provision about appeals against decisions under Part 3 of this Act) apply in relation to appeals under this paragraph as they apply in relation to appeals under Part 1 of that Schedule.
- (5) Paragraph 9(3) of that Schedule applies in relation to an appeal under sub-paragraph (2).

False statements

- 10 (1) A person commits an offence if he knowingly or recklessly makes a false statement in or in connection with an application under paragraph 2.
- (2) For the purposes of sub-paragraph (1) a person is to be treated as making a false statement if he produces, furnishes, signs or otherwise makes use of a document that contains a false statement.
- (3) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Opening hours

- 11 (1) This paragraph applies where—
- (a) within such period (of not less than six months) as may be specified, the holder of a justices' licence for any premises applies, in accordance with Part 3 of this Act, for the grant of a premises licence in respect of those premises, and
 - (b) the licence, if granted in the form applied for, would authorise the sale by retail of alcohol.
- (2) In determining the application for the premises licence under section 18, the relevant licensing authority may not, by virtue of subsection (3)(b) of that section, grant the licence subject to conditions which prevent the sale of alcohol on the premises during the permitted hours.
- (3) But sub-paragraph (2) does not apply where—
- (a) there has been a material change in circumstances since the relevant time, and

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- (b) the relevant representations made in respect of the application include representations made by the chief officer of police for the police area (or any police area) in which the premises are situated advocating that, for the purposes of promoting the crime prevention objective, the premises licence ought to authorise the sale of alcohol during more restricted hours than the permitted hours.

(4) In this paragraph—

“permitted hours” means the permitted hours during which the holder of the justices' licence is permitted to sell alcohol on the premises under Part 3 of the 1964 Act;

“relevant representations” has the meaning given in section 18(6); and

“relevant time” means the time when the justices' licence was granted or, if it has been renewed, the last time it was renewed.

Provisional licences

12 (1) Where—

- (a) during such period as may be specified the relevant licensing authority receives an application in accordance with Part 3 of this Act for the grant of a premises licence in respect of any premises (“the relevant premises”),
- (b) under section 6 of the 1964 Act, a provisional grant of a justices' licence has been made for—
 - (i) the relevant premises or a part of them, or
 - (ii) premises that are substantially the same as the relevant premises or a part of them, and
- (c) the conditions of sub-paragraph (2) are satisfied,

the licensing authority must have regard to the provisional grant of the justices' licence when determining the application for the grant of the premises licence.

(2) The conditions are—

- (a) that the provisional grant of the justices' licence has not been declared final, and
- (b) that the premises to which the provisional grant relates have been completed in a manner which substantially complies with the plans deposited under the 1964 Act or, as the case may be, with those plans with modifications consented to under section 6(3) of that Act.