

SCHEDULES

SCHEDULE 10

Section 247

FAMILY ENTERTAINMENT CENTRE GAMING MACHINE PERMITS

Interpretation

- 1 In this Schedule—
- “holder”, in relation to a permit, means the person to whom the permit is issued,
 - “the licensing authority”—
 - (a) in relation to an application, means the licensing authority to whom the application is made, and
 - (b) in relation to a permit, means the licensing authority who issue it,
 - “permit” means a family entertainment centre gaming machine permit,
 - “the premises”, in relation to an application or permit, means the premises in respect of which the permit is sought or issued, and
 - “prescribed” means prescribed by regulations made by the Secretary of State except that in paragraphs 5(d) and 21(2) it means, where the application is made to a licensing authority in Scotland, prescribed by regulations made by the Scottish Ministers.

Making of application

- 2 (1) An application for a permit may be made only by a person who—
 - (a) occupies or proposes to occupy the premises, and
 - (b) proposes to use the premises as an unlicensed family entertainment centre.
- (2) If the applicant for a permit is an individual, he must be an adult.
- 3 An application for a permit may not be made if a premises licence has effect in respect of the premises.
- 4 An application for a permit must be made to a licensing authority in whose area the premises are wholly or partly situated.
- 5 An application for a permit must—
 - (a) be made in such form and manner as the licensing authority may direct,
 - (b) specify the premises in respect of which the permit is sought,
 - (c) contain or be accompanied by such other information or documents as the licensing authority may direct, and
 - (d) be accompanied by the prescribed fee.

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Consideration of application

- 6 Sections 154 and 155 shall have effect in relation to the functions of a licensing authority under this Schedule as they have effect in relation to functions of a licensing authority under Part 8.
- 7 (1) A licensing authority may prepare a statement of principles that they propose to apply in exercising their functions under this Schedule.
- (2) A statement under sub-paragraph (1) may, in particular, specify matters that the licensing authority proposes to consider in determining the suitability of an applicant for a permit.
- (3) In exercising their functions under this Schedule a licensing authority—
- (a) need not (but may) have regard to the licensing objectives, and
 - (b) shall have regard to any relevant guidance issued by the Commission under section 25.

Determination of application

- 8 (1) On considering an application for a permit a licensing authority may—
- (a) grant it, or
 - (b) refuse it.
- (2) A licensing authority may not attach conditions to a permit.
- (3) As soon as is reasonably practicable after granting an application a licensing authority shall issue a permit to the applicant.
- (4) As soon as is reasonably practicable after refusing an application a licensing authority shall notify the applicant of—
- (a) the refusal, and
 - (b) the reasons for it.
- 9 A licensing authority may grant an application for a permit only if they—
- (a) are satisfied that the applicant intends to use the premises as an unlicensed family entertainment centre, and
 - (b) have consulted the chief officer of police for a police area in which the premises are wholly or partly situated.
- 10 (1) A licensing authority may not refuse an application unless they have—
- (a) notified the applicant of their intention to refuse the application and of their reasons, and
 - (b) given the applicant an opportunity to make representations.
- (2) A licensing authority may satisfy sub-paragraph (1)(b) by giving the applicant an opportunity to make—
- (a) oral representations,
 - (b) written representations, or
 - (c) both.

Form of permit

- 11 (1) A permit must be in the prescribed form and must specify—

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- (a) the person to whom it is issued,
 - (b) the premises, and
 - (c) the date on which it takes effect.
- (2) If the person to whom a permit is issued changes his name or wishes to be known by another name—
- (a) he may send the permit to the licensing authority with—
 - (i) the prescribed fee, and
 - (ii) a request that a new name be substituted for the old name, and
 - (b) the licensing authority shall comply with the request and return the permit to the holder.

Duration

- 12 A permit shall cease to have effect at the end of the period of ten years beginning with the date specified under paragraph 11(1)(c) unless—
- (a) it ceases to have effect before that time in accordance with a provision of this Schedule, or
 - (b) it is renewed in accordance with paragraph 18.
- 13 (1) A permit shall lapse if the holder ceases to occupy the premises specified under paragraph 11(1)(b).
- (2) A permit shall not take effect if on the date specified under paragraph 11(1)(c) the person to whom the permit is issued is not an occupier of the premises specified under paragraph 11(1)(b).
- 14 A permit shall lapse if the licensing authority notify the holder that the premises are not being used as a family entertainment centre.
- 15 (1) A permit held by an individual shall lapse if—
- (a) he dies,
 - (b) he becomes, in the opinion of the licensing authority as notified to him, incapable of carrying on the activities authorised by the permit by reason of mental or physical incapacity,
 - (c) he becomes bankrupt (within the meaning of section 381 of the Insolvency Act 1986 (c. 45)), or
 - (d) sequestration of his estate is awarded under section 12(1) of the Bankruptcy (Scotland) Act 1985 (c. 66).
- (2) In any other case a permit shall lapse if the holder—
- (a) ceases to exist, or
 - (b) goes into liquidation (within the meaning of section 247(2) of the Insolvency Act 1986).
- (3) During the period of six months beginning with the date on which a permit lapses under this paragraph the following may rely on it as if it had effect and were issued to them—
- (a) the personal representatives of the holder (in the case of an individual holder who dies),
 - (b) the trustee of the bankrupt's estate (in the case of an individual holder who becomes bankrupt), and

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- (c) the liquidator of the company (in the case of a company holder that goes into liquidation).
- 16 A permit shall cease to have effect if the holder gives to the licensing authority—
- (a) notice of surrender, and
 - (b) either—
 - (i) the permit, or
 - (ii) a statement explaining why it is not reasonably practicable to produce the permit.
- 17 (1) Where the holder of a permit is convicted of a relevant offence the court by or before which he is convicted may order forfeiture of the permit.
- (2) Forfeiture under this paragraph shall be on such terms (which may include terms as to suspension) as may be specified by—
- (a) the court which orders forfeiture,
 - (b) a court to which an appeal against the conviction, or against any order made on the conviction, has been or could be made, or
 - (c) the High Court, if hearing proceedings relating to the conviction.
- (3) Subject to any express provision made under sub-paragraph (2), a permit shall cease to have effect on the making of a forfeiture order under this paragraph.
- (4) The terms on which forfeiture is ordered under this paragraph shall, in particular, include a requirement that the holder of the permit deliver to the licensing authority within such time as the order may specify—
- (a) the permit, or
 - (b) a statement explaining why it is not reasonably practicable to produce the permit.
- (5) As soon as is reasonably practicable after making or suspending an order for forfeiture under this paragraph a court shall notify the licensing authority.

Renewal

- 18 (1) The holder of a permit may apply to the licensing authority for renewal of the permit.
- (2) An application for renewal may not be made—
- (a) before the period of six months ending with the date on which the permit would otherwise expire in accordance with paragraph 12, or
 - (b) after the beginning of the period of two months ending with that date.
- (3) The provisions of this Schedule shall have effect (with any necessary modifications) in relation to an application for renewal as they have effect in relation to an application for a permit.
- (4) A licensing authority may refuse an application for renewal of a permit only on the grounds—
- (a) that an authorised local authority officer has been refused access to the premises without reasonable excuse, or
 - (b) that renewal would not be reasonably consistent with pursuit of the licensing objectives.

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- (5) Paragraph 12 shall have effect in relation to a renewed permit as if the date of renewal were the date specified under paragraph 11(1)(c).
- (6) A permit shall not cease to have effect by virtue only of paragraph 12 while—
 - (a) an application for renewal of the permit is pending, or
 - (b) an appeal against a decision on an application for renewal of the permit is pending.

Maintenance

- 19 The holder of a permit shall keep it on the premises.
- 20 (1) An occupier of premises in respect of which a permit has effect commits an offence if without reasonable excuse he fails to produce the permit on request for inspection by—
 - (a) a constable,
 - (b) an enforcement officer, or
 - (c) an authorised local authority officer.
- (2) A person guilty of an offence under this paragraph shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.
- 21 (1) Where a permit is lost, stolen or damaged, the holder may apply to the licensing authority for a copy.
- (2) An application under sub-paragraph (1) must be accompanied by the prescribed fee.
- (3) A licensing authority shall consider an application under this paragraph and shall grant it if satisfied—
 - (a) that the permit has been lost, stolen or damaged, and
 - (b) where the permit has been lost or stolen, that the loss or theft has been reported to the police.
- (4) As soon as is reasonably practicable after granting an application under this paragraph a licensing authority shall issue a copy of the permit certified by the authority as a true copy.
- (5) A copy of a permit issued under this paragraph shall be treated as if it were the permit.

Appeal

- 22 (1) The applicant for or holder of a permit may appeal if the licensing authority—
 - (a) reject an application for the issue or renewal of a permit,
 - (b) give a notice under paragraph 14, or
 - (c) give a notice under paragraph 15(1)(b).
- (2) An appeal under this paragraph must be instituted—
 - (a) in the magistrates' court for a local justice area in which the premises to which the appeal relates are wholly or partly situated,
 - (b) by notice of appeal given to the designated officer, and
 - (c) within the period of 21 days beginning with the day on which the appellant or holder receives notice of the decision against which the appeal is brought.
- (3) On an appeal the magistrates' court may—

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- (a) dismiss the appeal;
 - (b) substitute for the decision appealed against any decision that the licensing authority could have made (with effect from such date and on such transitional or other terms as the court may specify);
 - (c) restore a permit (with effect from such date and on such transitional or other terms as the court may specify);
 - (d) remit the case to the licensing authority to decide in accordance with a direction of the court;
 - (e) make an order about costs.
- (4) Sub-paragraph (1) applies to a decision of a licensing authority following remittal under sub-paragraph (3)(d).
- (5) In relation to premises in Scotland—
- (a) sub-paragraph (2)(a) shall have effect as if it referred to a sheriff within whose sheriffdom the premises are wholly or partly situated,
 - (b) sub-paragraph (2)(b) shall not have effect,
 - (c) the reference in sub-paragraph (3) to the magistrates' court shall have effect as a reference to the sheriff, and
 - (d) the reference in sub-paragraph (3) to costs shall have effect as a reference to expenses.

Register

- 23 (1) A licensing authority shall—
- (a) maintain a register of permits issued by the authority together with such other information as may be prescribed,
 - (b) make the register and information available for inspection by members of the public at all reasonable times, and
 - (c) make arrangements for the provision of a copy of an entry in the register, or of information, to a member of the public on request.
- (2) A licensing authority may refuse to provide a copy of an entry or of information unless the person seeking it pays a reasonable fee specified by the authority.
- (3) The Secretary of State may make regulations about—
- (a) the form of the register;
 - (b) the manner in which it is maintained.
- (4) The Secretary of State may make regulations—
- (a) requiring licensing authorities to give to the Commission specified information about permits issued by them;
 - (b) requiring the Commission to maintain a register of the information provided to it under paragraph (a);
 - (c) requiring the Commission to grant access to the register to members of the public (without charge);
 - (d) requiring the Commission to make copies of entries available on request, and on payment of a reasonable fee, to members of the public;
 - (e) excusing licensing authorities, wholly or partly, from compliance with sub-paragraph (1).

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Vehicles and vessels

- 24 A permit may not be issued in respect of a vehicle or vessel (or part of a vehicle or vessel).