

SCHEDULES

SCHEDULE 12

Section 274

CLUB GAMING PERMITS AND CLUB MACHINE PERMITS

Application

- 1 (1) A members' club or miners' welfare institute may apply to a licensing authority for a club gaming permit.
- (2) A members club, commercial club or miners' welfare institute may apply to a licensing authority for a club machine permit.
- 2 An application must—
 - (a) be made to a licensing authority in whose area the premises are wholly or partly situated,
 - (b) specify the premises in relation to which the permit is sought,
 - (c) be made in the prescribed form and manner,
 - (d) contain or be accompanied by the prescribed information and documents, and
 - (e) be accompanied by the prescribed fee.
- 3 (1) A club or institute making an application for a permit must within the prescribed time send a copy of the application and of any accompanying documents to—
 - (a) the Commission, and
 - (b) the chief officer of police for any police area in which the premises are wholly or partly situated.
- (2) If a club or institute fails to comply with sub-paragraph (1) the application, and any permit issued in response to it, shall have no effect.

Consideration of application

- 4 A person who receives a copy of an application for a permit in accordance with paragraph 3 may object to the application within the prescribed period of time and in the prescribed manner.
- 5 The licensing authority to whom an application for a permit is made shall consider the application and—
 - (a) grant it, or
 - (b) refuse it.
- 6 (1) A licensing authority may refuse an application for a permit only on one or more of the following grounds (having regard to the matters mentioned in paragraph 27)—
 - (a) that the applicant is not—
 - (i) in the case of an application for a club gaming permit, a members' club or a miners' welfare institute, or

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- (ii) in the case of an application for a club machine permit, a members' club, a commercial club or a miners' welfare institute,
 - (b) that the premises on which the applicant conducts its activities are used wholly or mainly by children, by young persons or by both,
 - (c) that an offence, or a breach of a condition of a permit, has been committed in the course of gaming activities carried on by the applicant,
 - (d) that a permit held by the applicant has been cancelled during the period of ten years ending with the date of the application, or
 - (e) that an objection to the application has been made under paragraph 4.
- (2) If a licensing authority are satisfied in relation to an application for a permit of the matters specified in sub-paragraph (1)(a) or (b), they shall refuse the application.
- 7 (1) Before refusing an application for a permit a licensing authority must hold a hearing to consider the application and any objection made under paragraph 4.
- (2) But a licensing authority may dispense with the requirement for a hearing with the consent of—
- (a) the applicant, and
 - (b) any person who has made (and not withdrawn) an objection under paragraph 4.
- 8 (1) Where a licensing authority grant an application for a permit they shall as soon as is reasonably practicable—
- (a) give notice of their decision and, where an objection was made under paragraph 4, of the reasons for it to—
 - (i) the applicant,
 - (ii) the Commission, and
 - (iii) the chief officer of police for any area in which the premises specified in the application are wholly or partly situated, and
 - (b) issue the permit to the applicant.
- (2) A licensing authority may not attach conditions to a permit.
- 9 Where a licensing authority reject an application for a permit they shall as soon as is reasonably practicable give notice of their decision and the reasons for it to—
- (a) the applicant,
 - (b) the Commission, and
 - (c) the chief officer of police for any area in which the premises specified in the application are wholly or partly situated.

Fast-track procedure for holder of club premises certificate

- 10 (1) This paragraph applies to an application if—
- (a) the applicant for a permit is the holder of a club premises certificate under section 72 of the Licensing Act 2003 (c. 17), and
 - (b) the application asserts that paragraph (a) is satisfied and is accompanied by the certificate.
- (2) In the case of an application to which this paragraph applies—
- (a) paragraphs 3 to 6 shall not apply, and

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- (b) paragraphs 7 and 8 shall apply with the omission of any reference to objections.
- (3) The authority to whom an application to which this paragraph applies is made shall grant it unless they think—
 - (a) that the applicant is established or conducted wholly or mainly for the purposes of the provision of facilities for gaming, other than gaming of a prescribed kind,
 - (b) that the applicant is established or conducted wholly or mainly for the purposes of the provision of facilities for gaming of a prescribed kind and also provides facilities for gaming of another kind, or
 - (c) that a club gaming permit or club machine permit issued to the applicant has been cancelled during the period of ten years ending with the date of the application.
- (4) Regulations prescribing anything for the purposes of this Act may, in particular, make provision that differs in effect according to whether or not a permit is granted in pursuance of an application to which this paragraph applies.
- (5) This paragraph does not apply to Scotland.

Form of permit

- 11 (1) A permit must be in the prescribed form and must specify—
- (a) the name of the club or institute in respect of which it is issued,
 - (b) the premises to which it relates,
 - (c) whether it is a club gaming permit or a club machine permit,
 - (d) the date on which it takes effect, and
 - (e) such other information as may be prescribed.
- (2) If the application for the permit was made in accordance with paragraph 10, the permit must also identify the club premises certificate under section 72 of the Licensing Act 2003 (c. 17).

Maintenance

- 12 The holder of a permit shall keep it on the premises to which it relates.
- 13 (1) An occupier of premises to which a permit relates commits an offence if without reasonable excuse he fails to produce the permit on request for inspection by—
- (a) a constable, or
 - (b) an enforcement officer.
- (2) A person guilty of an offence under sub-paragraph (1) shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.
- 14 (1) The holder of a permit—
- (a) shall pay a first annual fee to the issuing licensing authority within such period after the issue of the permit as may be prescribed, and
 - (b) shall pay an annual fee to the issuing licensing authority before each anniversary of the issue of the permit.
- (2) In this paragraph “annual fee” means a fee of such amount as may be prescribed.

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- (3) Sub-paragraph (1)(b) does not apply in relation to an anniversary of the issue of a permit immediately before which the permit expires in accordance with paragraph 17.
- 15 (1) If information contained in a permit ceases to be accurate the holder of the permit shall as soon as is reasonably practicable apply to the issuing licensing authority to have the permit varied.
- (2) An application under sub-paragraph (1) must be accompanied by—
- (a) the prescribed fee, and
 - (b) either—
 - (i) the permit, or
 - (ii) a statement explaining why it is not reasonably practicable to produce the permit.
- (3) The licensing authority to whom an application is made under sub-paragraph (1) shall issue a copy of the permit varied in accordance with the application (and the copy shall be treated as if it were the original permit).
- (4) But if the authority think that they would refuse an application for the permit were it made anew, they may—
- (a) refuse the application for variation, and
 - (b) cancel the permit.
- (5) Paragraphs 7, 9 and 25 apply in relation to a decision under sub-paragraph (4) as they apply in relation to a decision to refuse an application for a permit (and paragraph 21 shall not apply).
- (6) The holder of a permit commits an offence if without reasonable excuse he fails to comply with sub-paragraph (1).
- (7) A person guilty of an offence under sub-paragraph (6) shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.
- 16 (1) Where a permit is lost, stolen or damaged, the holder may apply to the issuing licensing authority for a copy.
- (2) An application under sub-paragraph (1) must be accompanied by the prescribed fee.
- (3) A licensing authority shall grant an application under sub-paragraph (1) 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 sub-paragraph (1) a licensing authority shall issue a copy of the permit certified by the authority as a true copy (and the copy shall be treated as if it were the original permit).

Duration

- 17 (1) A permit shall cease to have effect at the end of the period of ten years beginning with the date on which it is issued unless—
- (a) it ceases to have effect before that time in accordance with a provision of this Schedule, or

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- (b) it is renewed in accordance with paragraph 24.
- (2) But a permit issued in pursuance of an application to which paragraph 10 applies—
 - (a) shall not cease to have effect by virtue of sub-paragraph (1),
 - (b) may cease to have effect in accordance with paragraph 19, 21, 22 or 23, and
 - (c) shall lapse if the club premises certificate on which the application relied ceases to have effect.
- 18 (1) If the holder of a permit ceases to be a members' club (whether or not it becomes a commercial club), a commercial club or a miners' welfare institute, the permit shall lapse.
- (2) But this paragraph does not apply to a permit issued in pursuance of an application to which paragraph 10 applies.
- 19 (1) A permit shall cease to have effect upon being surrendered by notice given by the holder of the permit to the issuing licensing authority.
- (2) A notice under sub-paragraph (1) must be accompanied by—
 - (a) the permit, or
 - (b) a statement explaining why it is not reasonably practicable to produce the permit.
- 20 (1) The licensing authority which issues a permit shall as soon as is reasonably practicable inform the persons specified in sub-paragraph (2) if the authority—
 - (a) believe that the permit has lapsed under paragraph 17(2)(c) or 18, or
 - (b) receive notice of surrender under paragraph 19.
- (2) The persons mentioned in sub-paragraph (1) are—
 - (a) the Commission, and
 - (b) the chief officer of police for any area in which the premises to which the permit relates are wholly or partly situated.

Cancellation and forfeiture

- 21 (1) The licensing authority which issued a permit may cancel it if the authority think—
 - (a) that the premises on which the holder of the permit conducts its activities are used wholly or mainly by children, by young persons or by both, or
 - (b) that an offence, or a breach of a condition of a permit, has been committed in the course of gaming activities carried on by the holder of the permit.
- (2) Before cancelling a permit under this paragraph a licensing authority shall—
 - (a) give the holder of the permit at least 21 days' notice of the authority's intention to consider cancelling the permit,
 - (b) consider any representations made by the holder,
 - (c) hold a hearing if the holder requests one, and
 - (d) comply with any prescribed requirements for the procedure to be followed in considering whether to cancel a permit.
- (3) If a licensing authority cancel a permit they shall as soon as is reasonably practicable give notice of the cancellation and the reasons for it to—
 - (a) the holder,
 - (b) the Commission, and

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- (c) the chief officer of police for any area in which the premises to which the permit relates are wholly or partly situated.
- (4) The cancellation of a permit shall not take effect until—
 - (a) the period specified in paragraph 25(5)(c) has expired without an appeal being brought, or
 - (b) any appeal brought has been determined.
- 22 (1) The licensing authority which issued a permit shall cancel it if the holder fails to pay the annual fee in accordance with paragraph 14.
- (2) But a licensing authority may disapply sub-paragraph (1) if they think that a failure to pay is attributable to administrative error.
- 23 (1) Where the holder of a permit, or an officer of the holder of a permit, is convicted of an offence under this Act by or before a court in Great Britain, the court 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 sub-paragraph (1).
- (4) The terms on which a forfeiture order is made under this paragraph shall, in particular, include a requirement that the holder deliver to the licensing authority who issued the permit, 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 an order for forfeiture under this paragraph the court shall notify the licensing authority who issued the permit.

Renewal

- 24 (1) The holder of a permit may apply to the issuing authority for its renewal.
- (2) An application for the renewal of a permit may not be made—
 - (a) before the period of three months ending with the date on which the permit would otherwise expire, or
 - (b) after the beginning of the period of six weeks 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) Paragraph 17 shall have effect in relation to a renewed permit with the substitution of the date of renewal for the date of issue.
- (5) A permit shall not cease to have effect by virtue only of paragraph 17 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.

Appeal

- 25 (1) Where a licensing authority reject an application for the issue or renewal of a permit the applicant may appeal.
- (2) Where a licensing authority grant an application for the issue or renewal of a permit in relation to which an objection was made under paragraph 4, the person who made the objection may appeal.
- (3) Where a licensing authority cancel a permit the holder may appeal.
- (4) Where a licensing authority determine not to cancel a permit, any person who in accordance with regulations under paragraph 21(2)(d) made representations to the authority in connection with their consideration whether to cancel the permit may appeal.
- (5) 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 receives notice of the decision against which the appeal is brought.
- (6) On an appeal a magistrates' court may—
- (a) dismiss the appeal;
 - (b) substitute for the decision appealed against any decision that the licensing authority could have made;
 - (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.
- (7) In relation to premises in Scotland—
- (a) sub-paragraph (5)(a) shall have effect as if it referred to a sheriff within whose sheriffdom the premises are wholly or partly situated,
 - (b) sub-paragraph (5)(b) shall not have effect,
 - (c) the reference in sub-paragraph (6) to the magistrates' court shall have effect as a reference to the sheriff, and
 - (d) the reference in sub-paragraph (6)(e) to costs shall have effect as a reference to expenses.
- (8) Sub-paragraphs (1) to (4) apply to a decision of a licensing authority following remittal under sub-paragraph (6)(d) above.

Register

- 26 (1) A licensing authority shall—

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- (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 subparagraph (1).

Exercise of functions by licensing authority: general

- 27 In exercising a function under this Schedule a licensing authority shall have regard to—
- (a) any relevant guidance under section 25, and
 - (b) subject to paragraph (a), the licensing objectives.
- 28 (1) 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.
- (2) In the application of section 154 to this Schedule the following shall be substituted for the list of functions in subsection (4) (which itself substitutes a list of functions for that in section 10(4) of the Licensing Act 2003)—
- (a) determination of an application for a permit in respect of which an objection has been made under this Schedule (and not withdrawn), and
 - (b) cancellation of a permit under paragraph 21.

Vehicles and vessels

- 29 A club gaming permit or club machine permit may not be issued in respect of a vehicle or vessel (or part of a vehicle or vessel).

Interpretation

- 30 In this Schedule “prescribed” means prescribed by the Secretary of State by regulations except that in paragraphs 2(e), 15(2)(a) and 16(2) it means, where the application in question is made to a licensing authority in Scotland, prescribed by the Scottish Ministers by regulations.
- 31 This Schedule shall, in its application to Scotland, have effect as if references to a chief officer of police were references to a chief constable.