

SCHEDULES

SCHEDULE 13

Section 283

LICENSED PREMISES GAMING MACHINE PERMITS

Making of application

- 1 (1) A person who applies to a licensing authority (in its capacity as a licensing authority under the Licensing Act 2003 (c. 17)) for an on-premises alcohol licence or who holds an on-premises alcohol licence issued by a licensing authority (in that capacity) may apply to that licensing authority (in its capacity as a licensing authority under this Act) for a licensed premises gaming machine permit.
- (2) An application may not be made under this Schedule if a licence under Part 8 has effect in relation to the premises.
- 2 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) specify the number and category of gaming machines in respect of which the permit is sought,
 - (d) contain or be accompanied by such other information or documents as the licensing authority may direct, and
 - (e) be accompanied by the prescribed fee.
- 3 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.
- 4 (1) A licensing authority to whom an application is made under this Schedule shall consider it having regard to the licensing objectives, any relevant guidance issued by the Commission under section 25 and such other matters as they think relevant.
- (2) On considering an application for a permit a licensing authority shall—
 - (a) grant the application,
 - (b) refuse the application, or
 - (c) grant it in respect of—
 - (i) a smaller number of machines than that specified in the application,
 - (ii) a different category of machines from that specified in the application, or
 - (iii) both.
- 5 (1) A licensing authority may not attach conditions to a permit.
- (2) As soon as is reasonably practicable after granting an application, a licensing authority shall issue a permit to the applicant.

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- (3) 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.
- 6 (1) A licensing authority may grant an application under this Schedule only if the applicant holds an on-premises alcohol licence.
- (2) A licensing authority may not refuse an application, or grant an application in respect of a different category or smaller number of gaming machines than that specified in the application, unless they have—
- (a) notified the applicant of their intention to refuse the application, or grant the application in respect of—
 - (i) a smaller number of machines than that specified in the application,
 - (ii) a different category of machines from that specified in the application, or
 - (iii) both, and
 - (b) given the applicant an opportunity to make representations.
- (3) A licensing authority may satisfy sub-paragraph (2)(b) by giving the applicant an opportunity to make—
- (a) oral representations,
 - (b) written representations, or
 - (c) both.
- (4) Sub-paragraph (2)(b) shall not apply in respect of a refusal if the refusal was by virtue of sub-paragraph (1).

Form of permit

- 7 (1) A permit must be in the prescribed form and must specify—
- (a) the person to whom it is issued,
 - (b) the premises,
 - (c) the number and category of gaming machines which it authorises, and
 - (d) 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.

Maintenance

- 8 The holder of a permit shall keep it on the premises to which it relates.
- 9 (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

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- (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.
- 10 (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.
- 11 (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.
- 12 A permit shall continue to have effect unless and until it ceases to have effect in accordance with a provision of this Schedule.
- 13 A permit shall cease to have effect if—
- (a) an on-premises alcohol licence ceases to have effect with respect to the premises to which it relates, or
 - (b) the permit holder ceases to be the holder of an on-premises alcohol licence.
- 14 A permit shall cease to have effect if the permit 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.

Variation

- 15 (1) The holder of a permit may apply to the licensing authority to vary the number or category (or both) of gaming machines authorised by the permit.
- (2) Paragraphs 1 to 7 and 21 shall have effect (with any necessary modifications) in relation to an application for variation under this paragraph as they have effect in relation to an application for the issue of a permit.

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Cancellation and forfeiture

- 16 (1) The licensing authority which issued a permit may cancel it, or may vary the number or category (or both) of gaming machines authorised by it, if they think that—
- (a) it would not be reasonably consistent with pursuit of the licensing objectives for the permit to continue to have effect,
 - (b) gaming has taken place on the premises in purported reliance on the permit but otherwise than in accordance with the permit or a condition of the permit,
 - (c) the premises are mainly used or to be used for making gaming machines available, or
 - (d) an offence under this Act has been committed on the premises.
- (2) Before cancelling or varying a permit under this paragraph a licensing authority shall—
- (a) give the permit holder at least 21 days' notice of the authority's intention to consider cancelling or varying 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 or vary a permit.
- (3) If a licensing authority cancel or vary a permit under this paragraph they shall as soon as is reasonably practicable give notice of the cancellation or variation and the reasons for it to—
- (a) the permit holder, and
 - (b) the Commission.
- (4) The cancellation or variation of a permit shall not take effect until—
- (a) the period specified in paragraph 21(2)(c) has expired without an appeal being brought, or
 - (b) any appeal brought has been determined.
- 17 (1) The licensing authority which issued a permit shall cancel it if the holder fails to pay the annual fee in accordance with paragraph 9.
- (2) But a licensing authority may disapply sub-paragraph (1) if they think that a failure to pay is attributable to administrative error.
- 18 (1) Where a permit holder, or the officer of a permit holder, 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.

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- (4) The terms on which forfeiture is ordered under this paragraph shall, in particular, include a requirement that the permit holder 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.

Transfer of permit

- 19 (1) A person may apply for the transfer of a permit to him if—
- (a) he is applying for the transfer of an on-premises alcohol licence to him in accordance with—
 - (i) section 42 of the Licensing Act 2003 (c. 17) (application for transfer), or
 - (ii) section 50 of that Act (transfer following death of holder), and
 - (b) a permit has effect in respect of the same premises.
- (2) The provisions of this Schedule shall have effect (with any necessary modifications) in relation to an application for the transfer of a permit as they have effect in relation to an application for the issue of a permit.
- (3) A person applying for the transfer of a permit to him must supply with his application—
- (a) the permit, or
 - (b) a statement explaining why it is not reasonably practicable to produce the permit.
- (4) A licensing authority may not approve an application for the transfer of a permit under this paragraph unless the transfer of the on-premises alcohol licence is approved under section 45 of the Licensing Act 2003 (determination of application).
- (5) Where a licensing authority refuse an application for the transfer of a permit under this paragraph by virtue of sub-paragraph (4), the provisions of paragraph 6(2)(b) shall not apply to the refusal.
- 20 (1) This paragraph applies where—
- (a) the transfer of an on-premises alcohol licence is to be given immediate effect under section 43 of the Licensing Act 2003 (interim effect of transfer application), and
 - (b) the applicant has also made an application under paragraph 19.
- (2) A permit in respect of those premises shall have effect during the application period as if the applicant for the transfer were the permit holder.
- (3) In this paragraph “application period” has the same meaning as in section 43 of the Licensing Act 2003.

Appeal

- 21 (1) The applicant for or holder of a permit may appeal if the licensing authority—

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- (a) reject an application for a permit,
 - (b) grant an application for a permit in respect of a smaller number of machines than that specified in the application or a different category of machines from that specified in the application (or both), or
 - (c) give a notice under paragraph 16.
- (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—
- (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).

Register

- 22 (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);

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- (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).

Interpretation

23 In this Schedule—

“permit” means a licensed premises gaming machine permit, and
“prescribed” means prescribed by regulations made by the Secretary of State.