

SCHEDULES

SCHEDULE 13

OWNERSHIP OF LICENSED BODIES

PART 2

APPROVAL OF RESTRICTED INTERESTS ON APPLICATION FOR LICENCE

Requirement to identify non-authorised persons

- 10 (1) Where a body applies to a licensing authority for a licence, it must identify in its application—
- (a) any non-authorised person who holds a restricted interest in the body, or whom the body expects to hold such an interest when the licence is issued, and
 - (b) the kind of restricted interest held, or expected to be held, by that person.
- (2) If, before the licence is issued, there is any change in—
- (a) the identity of the non-authorised persons within sub-paragraph (1)(a), or
 - (b) the kind of restricted interest held, or expected to be held, by a person identified to the licensing authority under that sub-paragraph,
- the applicant must inform the relevant licensing authority within such period as may be specified by order made by the Lord Chancellor on the recommendation of the Board.
- 11 (1) It is an offence for a person to fail to comply with a requirement imposed on the person by paragraph 10.
- (2) A person who is guilty of an offence under sub-paragraph (1) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (3) It is a defence for a person charged with an offence under sub-paragraph (1) to show that at the time of the alleged offence the person had no knowledge of the facts by virtue of which the duty to notify arose.
- 12 (1) This paragraph applies if a person under a duty to notify imposed by paragraph 10—
- (a) had no knowledge of the facts by virtue of which that duty arose, but
 - (b) subsequently becomes aware of those facts.
- (2) The person must give the licensing authority the required notification within such period, after the person becomes so aware, as may be specified by order made by the Lord Chancellor on the recommendation of the Board.
- (3) A person who fails to comply with the duty to notify imposed by sub-paragraph (2) is guilty of an offence.

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- (4) A person who is guilty of an offence under sub-paragraph (3) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Requirement to notify non-authorised persons

- 13 (1) Where an applicant for a licence identifies a non-authorised person to a licensing authority in accordance with paragraph 10 or 12, it must give that person a notice—
- (a) stating that it has applied for a licence and identified the person to the licensing authority in accordance with paragraph 10 or 12, and
 - (b) explaining the effect of paragraph 14.
- (2) It is an offence for a person to fail to comply with a requirement imposed on it by sub-paragraph (1).
- (3) A person who is guilty of an offence under sub-paragraph (2) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Licensing authority's power to require information

- 14 (1) A licensing authority may require a non-authorised person identified to it in accordance with paragraph 10 or 12 to provide it with such documents and information as it may require.
- (2) It is an offence for a person who is required to provide information or documents under sub-paragraph (1) knowingly to provide false or misleading information or documents.
- (3) A person who is guilty of an offence under sub-paragraph (2) is liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum, and
 - (b) on conviction on indictment, to a term of imprisonment not exceeding 2 years or a fine (or both).

Licence may not be granted unless non-authorised persons approved

- 15 (1) This paragraph applies where an applicant for a licence (“the applicant”) gives the licensing authority notification under paragraph 10 or 12 in relation to one or more non-authorised persons.
- (2) The licensing authority may not grant the application for a licence unless, in relation to each non-authorised person in respect of which notification is given (“the investor”), it approves the investor’s holding of the restricted interest to which the notification relates (“the notified interest”).
- (3) Sub-paragraph (2) does not apply in relation to a non-authorised person who does not hold the notified interest when the licence is issued.
- (4) In this Part of this Schedule, “the applicant”, “the investor” and “the notified interest” are to be construed in accordance with this paragraph.

Unconditional approval of notified interest

- 16 (1) If the licensing authority is satisfied that the approval requirements are met in relation to the investor’s holding of the notified interest, it must approve the investor’s holding of that interest without conditions.

- (2) If the licensing authority approves the investor's holding of the notified interest without conditions, it must notify the investor and the applicant of its approval as soon as reasonably practicable.

Conditional approval of notified interest

- 17 (1) If the licensing authority is not satisfied that the approval requirements are met in relation to the investor's holding of the notified interest, it may approve the investor's holding of the notified interest subject to conditions.
 - (2) It may do so only if it considers that, if the conditions are complied with, it will be appropriate for the investor to hold the notified interest without the approval requirements being met.
 - (3) If the licensing authority proposes to approve the investor's holding of the notified interest subject to conditions it must give the investor and the applicant a warning notice.
 - (4) The warning notice must—
 - (a) specify the nature of the conditions proposed and the reasons for their imposition, and
 - (b) state that representations may be made to the licensing authority within the prescribed period.
 - (5) The licensing authority must consider any representations made within the prescribed period.
 - (6) If the licensing authority approves the investor's holding of the notified interest subject to conditions, it must notify the investor and the applicant of its approval as soon as reasonably practicable.
 - (7) The notice must—
 - (a) specify the reasons for the imposition of the conditions, and
 - (b) explain the effect of Part 5 of this Schedule.
- 18 (1) The investor and the applicant may before the end of the prescribed period appeal to the relevant appellate body against the imposition of any or all of the conditions.
 - (2) The relevant appellate body may dismiss the appeal, or allow the appeal and—
 - (a) order the licensing authority to approve the investor's holding of the notified interest without conditions, or subject to such conditions as may be specified in the order, or
 - (b) remit the matter to the licensing authority.
 - (3) A party to the appeal may before the end of the prescribed period appeal to the High Court on a point of law arising from the decision of the relevant appellant body, but only with the permission of the High Court.
 - (4) The High Court may make such order as it thinks fit.
 - (5) If the investor's holding of the notified interest is subject to conditions as a result of an order made on an appeal under this paragraph, for the purposes of this Schedule the conditions are to be treated as having been imposed under paragraph 17.

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Objection to notified interest

- 19 (1) If the licensing authority is not satisfied that the approval requirements are met in relation to the investor's holding of the notified interest, it may object to the investor's holding of that interest.
- (2) If the licensing authority proposes to object to the investor's holding of the notified interest, it must give the investor and the applicant a warning notice.
- (3) The warning notice must—
- (a) specify the reasons for the proposed objection, and
 - (b) state that representations may be made to the licensing authority within the prescribed period.
- (4) The licensing authority must consider any representations made within the prescribed period.
- (5) If the licensing authority objects to the investor's holding of the notified interest, it must notify the investor and the applicant of its objection as soon as reasonably practicable.
- (6) The notice must—
- (a) specify the reasons for the objection, and
 - (b) explain the effect of Part 5 of this Schedule.
- 20 (1) The investor and the applicant may before the end of the prescribed period appeal to the relevant appellate body against the objection.
- (2) The relevant appellate body may dismiss the appeal, or allow the appeal and—
- (a) order the licensing authority to approve the investor's holding of the notified interest without conditions, or subject to such conditions as may be specified in the order, or
 - (b) remit the matter to the licensing authority.
- (3) A party to the appeal may before the end of the prescribed period appeal to the High Court on a point of law arising from the decision of the relevant appellate body, but only with the permission of the High Court.
- (4) The High Court may make such order as it thinks fit.
- (5) If the investor's holding of the notified interest is subject to conditions as a result of an order made on an appeal under this paragraph, for the purposes of this Schedule the conditions are to be treated as having been imposed under paragraph 17.