

SCHEDULES

SCHEDULE 4

LICENSING ACT 2003: AMENDMENTS RELATING TO ILLEGAL WORKING

PART 2

PREMISES LICENCES

- 2 Part 3 of the Licensing Act 2003 (premises licences) is amended as follows.
- 3 In section 13(4) (meaning of “responsible authority”), after paragraph (h) insert—
“*(ha)* where the premises (not being a vessel) are being, or are proposed
to be, used for a licensable activity within section 1(1)(a) or (d), the
Secretary of State.”
- 4 (1) Section 16 (applicant for premises licence) is amended as follows.
- (2) In subsection (1), at the beginning insert “Subject to subsections (2) and (2A).”.
- (3) In subsection (2), omit “But”.
- (4) After subsection (2) insert—
“(2A) An individual who is resident in the United Kingdom may not apply for a
premises licence authorising premises to be used for a licensable activity
within section 1(1)(a) or (d) unless the individual is entitled to work in the
United Kingdom.”
- 5 In section 27 (death, incapacity, insolvency etc of licence holder), after
subsection (1) insert—
“(1A) A premises licence that authorises premises to be used for a licensable
activity within section 1(1)(a) or (d) also lapses if the holder of the licence
ceases to be entitled to work in the United Kingdom at a time when the holder
of the licence is resident in the United Kingdom (or becomes so resident
without being entitled to work in the United Kingdom).”
- 6 (1) Section 42 (application for transfer of premises licence) is amended as follows.
- (2) After subsection (2) insert—
“(2A) Where the applicant is an individual who is resident in the United Kingdom
and the premises licence authorises premises to be used for a licensable
activity within section 1(1)(a) or (d) he must also be entitled to work in the
United Kingdom.”
- (3) After subsection (5) insert—

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“(5ZA) Where the premises licence authorises premises to be used for a licensable activity within section 1(1)(a) or (d), the relevant person must also give notice of the application to the Secretary of State.”

(4) In subsection (5A), for “subsection (5)” substitute “subsections (5) and (5ZA)”.

(5) After subsection (7) insert—

“(8) Where the Secretary of State is given notice under subsection (5ZA) and is satisfied that the exceptional circumstances of the case are such that granting the application would be prejudicial to the prevention of illegal working in licensed premises, the Secretary of State must give the relevant licensing authority a notice stating the reasons for being so satisfied.

(9) The Secretary of State must give that notice within the period of 14 days beginning with the day on which the Secretary of State is notified of the application under subsection (5ZA).”

7 (1) Section 44(5) (determination of transfer application) is amended as follows.

(2) In the words before paragraph (a), after “section 42(6)” insert “or (8)”.

(3) In paragraph (a), for “chief officer of police” substitute “person”.

(4) For paragraph (b) substitute—

“(b) having regard to the notice—

(i) where the notice is given under section 42(6), reject the application if it considers it appropriate for the promotion of the crime prevention objective to do so, or

(ii) where the notice is given under section 42(8), reject the application if it considers it appropriate for the prevention of illegal working in licensed premises to do so.”

8 (1) Section 45 (notification of determination under section 44) is amended as follows.

(2) In subsection (2)—

(a) after “that section” insert “or the Secretary of State gave a notice under subsection (8) of that section”;

(b) for “(and it” substitute “(which, in either case,”.

(3) After subsection (2) insert—

“(2A) Where the Secretary of State gave a notice under subsection (8) of section 42 (which was not withdrawn), the notice under subsection (1) of this section must also be given to the Secretary of State.”

9 (1) Section 47 (interim authority notice following death etc of licence holder) is amended as follows.

(2) In subsection (1)—

(a) after “or (c)” insert “or (1A)”;

(b) after “holder” insert “or change of immigration status”.

(3) In subsection (3), after “subject to” insert “subsection (3A) and”.

(4) After subsection (3) insert—

“(3A) Where the premises licence authorises premises to be used for a licensable activity within section 1(1)(a) or (d), a person falling within subsection (2) (a) or (b) who is an individual who is resident in the United Kingdom may give an interim authority notice only if the person is entitled to work in the United Kingdom.”

(5) In subsection (7), after paragraph (a) insert—

“(aa) where the premises licence authorises premises to be used for a licensable activity within section 1(1)(a) or (d), at the end of the initial 28 day period unless before that time the person who gave the interim authority notice has given a copy of the notice to the Secretary of State;”.

(6) In subsection (7A)—

- (a) in paragraph (a), for “subsection (7)(a) does” substitute “paragraphs (a) and (aa) of subsection (7) do”;
- (b) in paragraph (b), at the end insert “and, where the premises licence authorises premises to be used for a licensable activity within section 1(1)(a) or (d), to the Secretary of State.”

10 (1) Section 48 (cancellation of interim authority notice following police objections) is amended as follows.

(2) In the heading, omit “police”.

(3) In subsection (1), for “This section” substitute “Subsection (2)”.

(4) After subsection (2) insert—

“(2A) Subsection (2B) applies where—

- (a) an interim authority notice by a person (“the relevant person”) is given in accordance with section 47,
- (b) the Secretary of State is given a copy of the interim authority notice before the end of the initial 28 day period (within the meaning of that section), and
- (c) the Secretary of State is satisfied that the exceptional circumstances of the case are such that a failure to cancel the interim authority notice would be prejudicial to the prevention of illegal working in licensed premises.

(2B) The Secretary of State must before the end of the second working day following receipt of the copy of the interim authority notice give the relevant licensing authority a notice stating why the Secretary of State is so satisfied.”

(5) In subsection (3)—

- (a) in the words before paragraph (a), for “by the chief officer of police” substitute “under subsection (2) or (2B)”;
- (b) in paragraph (a), for “chief officer of police” substitute “person who gave the notice”;
- (c) for paragraph (b) substitute—
 - “(b) having regard to the notice—
 - (i) where the notice is given under subsection (2), cancel the interim authority notice if it considers

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it appropriate for the promotion of the crime prevention objective to do so, or

- (ii) where the notice is given under subsection (2B), cancel the interim authority notice if it considers it appropriate for the prevention of illegal working in licensed premises to do so.”

(6) After subsection (5) insert—

“(5A) Where an interim authority notice is cancelled under subsection (3)(b) (ii), the licensing authority must also give a copy of the notice under subsection (4) to the Secretary of State.”

- 11 In section 50 (reinstatement of licence on transfer following death etc of holder), in subsection (3), for “(who, in the case of an individual, is aged 18 or over)” substitute “(and who would, where applicable, satisfy subsections (2) and (2A) of section 42)”.