

SCHEDULE

Article 3

Transitional provisions and savings

PART 1

Interpretation

1. In this Schedule, in relation to an application for an order under section 6 of the 1968 Act, an application for a permit under section 34 of that Act, or an application for a permit under section 16 of the 1976 Act—

“the licensing justices” means, in relation to any time before the second appointed day, the licensing justices for the licensing district (within the meaning of the Licensing Act 1964⁽¹⁾) in which the premises to which the application relates are situated, and to whom the application has been made;

“the relevant local justice area” means the local justice area which immediately before the second appointed day also constitutes the licensing district for which the licensing justices are appointed; and

“the relevant licensing authority” means the authority which granted the premises licence in respect of the premises to which the application relates.

PART 2

Orders under section 6 of the 1968 Act

2.—(1) This paragraph applies to premises in respect of which an order under section 6 of the 1968 Act is in force immediately before the second appointed day.

(2) The validity of the order is not to be affected by the justices' on-licence granted in respect of the premises ceasing to have effect immediately before the second appointed day; and, where a premises licence takes effect on that day authorising the supply of alcohol for consumption on the premises, the order is to continue to have effect on and after that day as if granted by the relevant licensing authority (as defined in section 6 of the 1968 Act).

3.—(1) The following provisions of this paragraph apply to any application for an order under section 6 of the 1968 Act which—

- (a) is made to the licensing justices before the second appointed day, and
- (b) is not determined or withdrawn before that date.

(2) The application is to be treated for the purposes of section 6 of the 1968 Act as having been made to the relevant licensing authority on the second appointed day.

(3) The designated officer for the relevant local justice area is to send the relevant licensing authority on the second appointed day or as soon as reasonably practicable after that day—

- (a) the application, and
- (b) copies of any other documents or records held by him which he considers to be relevant to the application.

(1) 1964 c. 26. The Licensing Act 1964 is repealed by the Licensing Act 2003, section 199 and Schedule 7.

(4) The designated officer for the relevant local justice area is to give notice in writing to the applicant as soon as reasonably practicable after sending the documents referred to in sub-paragraph (3)—

- (a) indicating that the application and copies of documents and records relating to the application have been sent to the relevant licensing authority, and
- (b) explaining that the application will be determined by that authority.

PART 3

Permits under section 34 of the 1968 Act

4.—(1) This paragraph applies to premises in respect of which a permit under section 34 of the 1968 Act granted by the licensing justices is in force immediately before the second appointed day.

(2) The validity of the permit is not to be affected by the justices' on-licence granted in respect of the premises ceasing to have effect immediately before the second appointed day; and, where a premises licence takes effect on that day authorising the supply of alcohol for consumption on the premises, the order is to continue to have effect on and after that day as if granted by the relevant licensing authority (as defined in Schedule 9 to the 1968 Act).

5.—(1) This paragraph applies in relation to premises in respect of which—

- (a) a permit under section 34 of the 1968 Act is in force immediately before the second appointed day granted by the authority mentioned in paragraph 1(b) of Schedule 9 to that Act, and
- (b) a premises licence takes effect on that day authorising the supply of alcohol for consumption on the premises.

(2) Despite the amendments made by paragraph 52 of Schedule 6 to the Act, the permit is to continue to have effect on and after the second appointed day, and may be renewed on or after that day by the authority mentioned in paragraph 1(b) of Schedule 9 to the 1968 Act.

(3) Where a permit has effect in accordance with this paragraph—

- (a) any reference in the 1968 Act to premises mentioned in sub-paragraph (a) of paragraph 1 of Schedule 9 to that Act, or to premises to which that sub-paragraph applies, is not to include a reference to the premises to which the permit applies, and
- (b) any reference in that Act to the authority mentioned in that sub-paragraph is not to be construed as including a reference to the authority which granted the permit.

6.—(1) This paragraph applies where—

- (a) an application for the renewal or grant of a permit under section 34 of the 1968 Act is made before the second appointed day to the authority mentioned in paragraph 1(b) of Schedule 9 to that Act in respect of premises which are licensed under Part 4 of the Licensing Act 1964 when the application is made,
- (b) the application is not determined or withdrawn before that day, and
- (c) a premises licence takes effect on that day authorising the supply of alcohol for consumption on the premises.

(2) For the purposes of sub-paragraph (1), where the authority mentioned in paragraph 1(b) of Schedule 9 to the 1968 Act makes a decision on an application, it is not to be treated as having been determined until the period for appealing has elapsed; or, where an appeal is made, until the appeal has been determined or abandoned.

(3) Despite the amendments made by paragraph 52 of Schedule 6 to the Act—

- (a) the application may continue to be considered and determined by the authority mentioned in paragraph 1(b) of Schedule 9 to the 1968 Act, and
- (b) an appeal against such a decision may be made or may continue to be made in accordance with paragraph 11 of that Schedule.

(4) Sub-paragraphs (2) and (3) of paragraph 5 shall have effect in relation to a permit granted in pursuance of this paragraph as they have effect in relation to permits to which that paragraph applies.

7.—(1) Paragraphs 8 to 11 apply to any application for the renewal or grant of a permit under section 34 of the 1968 Act which—

- (a) is made to the licensing justices before the second appointed day, and
- (b) is not determined or withdrawn before that date.

(2) For the purposes of sub-paragraph (1), where the licensing justices make a decision on an application, it is not to be treated as having been determined until the period for appealing has elapsed; or, where an appeal is made, until the appeal has been determined or abandoned.

8.—(1) This paragraph applies where no decision on the application is made by the licensing justices before the second appointed day.

(2) The application is to be treated for the purposes of Schedule 9 to the 1968 Act as having been made to the relevant licensing authority on the second appointed day; and any reference in that Schedule to the appropriate authority is to be construed in relation to the application as a reference to that authority.

(3) The designated officer for the relevant local justice area is to send the relevant licensing authority on the second appointed day or as soon as reasonably practicable after that day—

- (a) the application, and
- (b) copies of any other documents or records held by him which he considers to be relevant to the application.

(4) The designated officer for the relevant local justice area is to give notice in writing to the applicant as soon as reasonably practicable after sending the documents referred to in sub-paragraph (3)—

- (a) indicating that the application and other documents and records relating to the application have been sent to the relevant licensing authority, and
- (b) explaining that the application will be determined by that authority.

9.—(1) This paragraph applies where—

- (a) a decision is made by the licensing justices to reject the application, or to grant or renew the permit subject to a condition, but
- (b) immediately before the second appointed day either the period for appealing against that decision under paragraph 11 of Schedule 9 to the 1968 Act has not elapsed, or an appeal has been made by the applicant and that appeal has not been determined or abandoned.

(2) Subject to sub-paragraph (3), the decision of the licensing justices is to be treated for the purposes of Schedule 9 to the 1968 Act as having been made by the relevant licensing authority.

(3) Sub-paragraph (2) is to be without prejudice to paragraph 11(5) of Schedule 9 to the 1968 Act which is to continue to have effect for the purposes of any appeal to which this paragraph applies.

(4) Where an appeal is made under paragraph 11 of Schedule 9 to the 1968 Act, the relevant licensing authority is to be the respondent for the purposes of the appeal; and, in relation to the

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appeal, any reference in that Schedule to the appropriate authority or the clerk to the appropriate authority is to be construed accordingly.

(5) The designated officer for the relevant local justice area is to send the relevant licensing authority on the second appointed day or as soon as reasonably practicable after that day—

- (a) the application,
- (b) where an appeal is made before that day, the notices given under sub-paragraphs (1) and (2) of paragraph 11 of Schedule 9 to the 1968 Act, and
- (c) copies of any other documents or records held by him which he considers to be relevant to the application and (where an appeal has been made) to the appeal.

(6) The designated officer for the relevant local justice area is to give notice in writing to the applicant as soon as reasonably practicable on or after sending the documents referred to in sub-paragraph (5)—

- (a) indicating that the documents and records referred to in paragraphs (a) to (c) of sub-paragraph (5) have been sent to the relevant licensing authority, and
- (b) explaining the effect of sub-paragraphs (2) and (4).

10. Where before the second appointed day the applicant for the permit makes a payment to the licensing justices or their designated officer in respect of the fee for the permit, the payment (or a sum equal to the amount of the payment) is to be returned to the applicant by the designated officer for the relevant local justice area as soon as reasonably practicable on or after that date.

11.—(1) This paragraph applies where the application is for the renewal of a permit.

(2) Where the application to the licensing justices is made not less than one month before the date on which the permit is due to expire, despite paragraph 8(2) above, paragraph 19 of Schedule 9 to the 1968 Act is to continue to apply to the application on or after the second appointed day as it had effect immediately before that day.

12.—(1) This paragraph applies in the case of a permit under section 34 of the 1968 Act which expires on or after the second appointed day but before 8 January 2006, where no application for renewal is made before the second appointed day.

(2) Where the permit expires before 9 December 2005 it is to be treated as continuing to have effect until immediately before that date.

(3) Where the application for renewal is made before 9 December 2005 paragraph 19 of Schedule 9 to the 1968 Act is to apply to the application even if it is made less than one month before the date on which the permit is due to expire.

PART 4

Permits under section 16 of the 1976 Act

13.—(1) This paragraph applies to premises in respect of which a permit under section 16 of the 1976 Act granted by the licensing justices is in force immediately before the second appointed day.

(2) The validity of the permit is not to be affected by the justices' on-licence granted in respect of the premises ceasing to have effect immediately before the second appointed day; and, where a premises licence takes effect on that day authorising the supply of alcohol for consumption on the premises, the order is to continue to have effect on and after that day as if granted by the relevant licensing authority (as defined in Schedule 3 to the 1976 Act).

14.—(1) This paragraph applies in relation to premises in respect of which—

- (a) a permit under section 16 of the 1976 Act is in force immediately before the second appointed day granted by the authority mentioned in paragraph 1(1)(b) of Schedule 3 to that Act, and
 - (b) a premises licence takes effect on that day authorising the supply of alcohol for consumption on the premises.
- (2) Despite the amendments made by paragraph 63 of Schedule 6 to the Act, the permit is to continue to have effect on and after the second appointed day, and may be renewed on or after that day by the authority mentioned in paragraph 1(1)(b) of Schedule 3 to the 1976 Act.

15.—(1) This paragraph applies where—

- (a) an application for the renewal or grant of a permit under section 16 of the 1976 Act is made before the second appointed day to the authority mentioned in paragraph 1(1)(b) of Schedule 3 to that Act in respect of premises which are licensed under Part 4 of the Licensing Act 1964 when the application is made,
 - (b) the application is not determined or withdrawn before that day, and
 - (c) a premises licence takes effect on that day authorising the supply of alcohol for consumption on the premises.
- (2) For the purposes of sub-paragraph (1), where the authority mentioned in paragraph 1(1)(b) of Schedule 3 to the 1976 Act makes a decision on an application, it is not to be treated as having been determined until the period for appealing has elapsed; or, where an appeal is made, until the appeal has been determined or abandoned.
- (3) Despite the amendments made by paragraph 63 of Schedule 6 to the Act—
- (a) the application may continue to be considered and determined by the authority mentioned in paragraph 1(1)(b) of Schedule 3 to the 1976 Act, and
 - (b) an appeal against such a decision may be made or may continue to be made in accordance with paragraph 8 of that Schedule.
- (4) Sub-paragraph (2) of paragraph 14 shall have effect in relation to a permit granted in pursuance of this paragraph as it has effect in relation to permits to which that paragraph applies.

16.—(1) Paragraphs 17 to 20 apply to any application for the renewal or grant of a permit under section 16 of the 1976 Act which—

- (a) is made to the licensing justices before the second appointed day, and
 - (b) is not determined or withdrawn before that date.
- (2) For the purposes of sub-paragraph (1), where the licensing justices make a decision on an application, it is not to be treated as having been determined until the period for appealing has elapsed; or, where an appeal is made, until the appeal has been determined or abandoned.

17.—(1) This paragraph applies where no decision on the application is made by the licensing justices before the second appointed day.

- (2) The application is to be treated for the purposes of Schedule 3 to the 1976 Act as having been made to the relevant licensing authority on the second appointed day; and any reference in that Schedule to the appropriate authority is to be construed as a reference to that authority.
- (3) The designated officer for the relevant local justice area is to send the relevant licensing authority on the second appointed day or as soon as reasonably practicable after that day—
- (a) the application, and
 - (b) copies of any other documents or records held by him which he considers to be relevant to the application.

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(4) The designated officer for the relevant local justice area is to give notice in writing to the applicant as soon as reasonably practicable on or after sending the documents referred to in sub-paragraph (3)—

- (a) indicating that the application and copies of other documents and records relating to the application have been sent to the relevant licensing authority, and
- (b) explaining that the application will be determined by that authority.

18.—(1) This paragraph applies where—

- (a) a decision is made by the licensing justices to reject the application, or to grant or renew the permit subject to a condition, but
- (b) immediately before the second appointed day either the period for appealing against that decision under paragraph 8 of Schedule 3 to the 1976 Act has not elapsed, or an appeal has been made by the applicant and that appeal has not been determined or abandoned.

(2) Subject to sub-paragraph (3), on and after the second appointed day the decision of the licensing justices is to be treated for the purposes of Schedule 3 to the 1976 Act as having been made by the relevant licensing authority.

(3) Sub-paragraph (2) is to be without prejudice to paragraph 8(4) of Schedule 3 to the 1976 Act which is to continue to have effect for the purposes of any appeal to which this paragraph applies.

(4) Where an appeal is made under paragraph 8 of Schedule 3 to the 1976 Act, the relevant licensing authority is to be the respondent for the purposes of the appeal; and, in relation to the appeal, any reference in that Schedule to the appropriate authority or the clerk to the appropriate authority is to be construed accordingly.

(5) The designated officer for the relevant local justice area is to send the relevant licensing authority on the second appointed day or as soon as reasonably practicable after that day—

- (a) the application,
- (b) where an appeal is made before that day, the notices given under sub-paragraphs (1) and (2) of paragraph 8 of Schedule 3 to the 1976 Act, and
- (c) copies of any other documents or records held by him which he considers to be relevant to the application and (where an appeal has been made) to the appeal.

(6) The designated officer for the relevant local justice area is to give notice in writing to the applicant as soon as reasonably practicable on or after sending the documents referred to in sub-paragraph (5)—

- (a) indicating that the documents and records referred to in paragraphs (a) to (c) of sub-paragraph (5) have been sent to the relevant licensing authority, and
- (b) explaining the effect of sub-paragraphs (2) and (4).

19. Where before the second appointed day the applicant for the permit makes a payment to the licensing justices or their designated officer in respect of the fee for the permit, the payment (or a sum equal to the amount of the payment) is to be returned to the applicant by the designated officer for the relevant local justice area as soon as reasonably practicable on or after that date.

20.—(1) This paragraph applies where the application is for the renewal of a permit.

(2) Where the application to the licensing justices is made not less than one month before the date on which the permit is due to expire, despite paragraph 17(2) above, paragraph 16 of Schedule 3 to the 1976 Act is to continue to apply to the application on or after the second appointed day as it had effect immediately before that date.

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21.—(1) This paragraph applies in the case of a permit under section 16 of the 1976 Act which expires on or after the second appointed day but before 8 January 2006, where no application for renewal is made before the second appointed day.

(2) Where the permit expires before 9 December 2005 it is to be treated as continuing to have effect until immediately before that date.

(3) Where the application for renewal is made before 9 December 2005 paragraph 16 of Schedule 3 to the 1976 Act is to apply to the application even if it is made less than one month before the date on which the permit is due to expire.