

- (e) the deductions which promoters may make from the proceeds of a lottery.
- (3) Before making an order under this paragraph the Secretary of State must consult the Gambling Commission.

PART 7

5

INTERPRETATION

Advertisement

- 57 In this Schedule –
- (a) “advertisement”, in relation to a lottery, includes any written notice announcing that a lottery will take place or inviting people to participate in a lottery (in either case whether or not it also gives other information), and
 - (b) a reference to displaying an advertisement includes a reference to publishing a notice.

Business 15

- 58 In this Schedule “business” includes trade and profession.

SCHEDULE 9

Section 232

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. 20
- (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, 25
 - (b) specify the premises in relation to which the permit is sought, and
 - (c) be made in the prescribed form and manner,
 - (d) contain or be accompanied by the prescribed information and documents, and 30
 - (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 35
 - (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 – 5
- (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 26) – 10
- (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 15
- (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, 20
- (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. 25
- (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. 30
- (2) But a licensing authority may dispense with the requirement for a hearing with the consent of –
- (a) the applicant, and 35
- (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 – 40
- (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 45
- (b) issue the permit to the applicant in the prescribed form.
- (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.

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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
 - (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 Part 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.

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Maintenance

- 11 The holder of a permit shall keep it on the premises to which it relates.
- 12 (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) a gambling inspector.
- (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.
- 13 (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.

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- (2) In this paragraph “annual fee” means a fee of such amount as may be prescribed.
- (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 16. 5
- 14 (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 – 10
- (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). 15
- (4) The holder of a permit commits an offence if without reasonable excuse he fails to comply with sub-paragraph (1).
- (5) A person guilty of an offence under this sub-paragraph (4) shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale. 20
- 15 (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. 25
- (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. 30
- (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* 35
- 16 (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
- (b) it is renewed in accordance with paragraph 23. 40
- (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 18, 20, 21 or 22, and 45
- (c) shall lapse if the club premises certificate on which the application relied ceases to have effect.

- 17 (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. 5
- 18 (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. 10
- 19 (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 16(2)(c) or 17, or 15
 - (b) receive notice of surrender under paragraph 18.
- (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. 20

Cancellation and forfeiture

- 20 (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 25
 - (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. 35
- (3) If a licensing authority cancels 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 40
 - (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 24(5)(c) has expired without an appeal being brought, or 45
 - (b) any appeal brought has been determined.

- 21 (1) The licensing authority which issued a permit shall cancel it if the holder fails to pay the annual fee in accordance with paragraph 13.
- (2) But a licensing authority may disapply sub-paragraph (1) if they think that a failure to pay is attributable to administrative error.
- 22 (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. 5
- (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, 10
- (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). 15
- (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 – 20
- (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. 25

Renewal

- 23 (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 30
- (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. 35
- (4) Paragraph 16 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 16 while –
- (a) an application for renewal of the permit is pending, or 40
- (b) an appeal against a decision on an application for renewal of the permit is pending.

Appeal

- 24 (1) Where a licensing authority reject an application for the issue or renewal of a permit the applicant may appeal. 45

- (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 5, 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 20(2)(d) made representations to the authority in connection with their consideration whether to cancel the permit may appeal. 5
 - (5) An appeal under this paragraph must be instituted –
 - (a) in the magistrates’ court for a petty sessions area in which the premises to which the appeal relates are wholly or partly situated, 10
 - (b) by notice of appeal given to the justices’ chief executive, 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. 15
 - (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) remit the case to the licensing authority to decide in accordance with a direction of the court; 20
 - (d) make an order about costs.
 - (7) Sub-paragraph (1) applies to a decision of a licensing authority following remittal under sub-paragraph (4)(c) above.
- Register* 25
- 25 (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 30
 - (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. 35
 - (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; 40
 - (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); 45

- (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 sub-paragraph (1). 5

Exercise of functions by licensing authority: general

- 26 In exercising a function under this Schedule a licensing authority shall have regard to –
- (a) any relevant guidance under section 17, and
 - (b) subject to paragraph (a), the licensing objectives. 10
- 27 (1) Section 128 shall have effect in relation to the functions of a licensing authority under this Schedule as it has effect in relation to the functions of a licensing authority under Part 8 (apart from section 126).
- (2) In the application of section 128 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) – 15
- (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 20. 20

SCHEDULE 10

Section 264

CONSEQUENTIAL AMENDMENTS

Art Unions Act 1846 (c. 48)

- 1 Section 1 of the Art Unions Act 1846 shall cease to have effect.

Superannuation Act 1972 (c. 11) 25

- 2 In Schedule 1 to the Superannuation Act 1972 (employment to which superannuation schemes may extend) for “Gaming Board for Great Britain.” substitute “Gambling Commission.”

Police Act 1997 (c. 50)

- 3 In section 115 (enhanced criminal record certificates) for subsection (5)(a) to (c) substitute – 30
- “(a) a certificate, licence or authorisation under the Gambling Act [Year of enactment]”.