

UK Parliament Acts/L/LO-LT/Local Government (Miscellaneous Provisions) Act 1982 (1982 c 30)/SCHEDULE 3 Control of Sex Establishments

SCHEDULE 3

CONTROL OF SEX ESTABLISHMENTS

Section 2

Saving for existing law

1

Nothing in this Schedule--

- (a) shall afford a defence to a charge in respect of any offence at common law or under an enactment other than this Schedule; or
- (b) shall be taken into account in any way--
 - (i) at a trial for such an offence; or
 - (ii) in proceedings for forfeiture under section 3 of the Obscene Publications Act 1959 or *section 5 of [the Schedule to] the Protection of Children Act 1978*; or
 - (iii) in proceedings for condemnation under Schedule 3 to the Customs and Excise Management Act 1979 of goods which section 42 of the Customs Consolidation Act 1876 prohibits to be imported or brought into the United Kingdom as being indecent or obscene; or
- (c) shall in any way limit the other powers exercisable under any of those Acts.

Meaning of "sex establishment"

2

In this Schedule "sex establishment" means a [sexual entertainment venue,] sex cinema[. . .], a hostess bar] or a sex shop.

[Meaning of "sexual entertainment venue"

2A

- (1) In this Schedule "sexual entertainment venue" means any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer.
- (2) In this paragraph "relevant entertainment" means--
 - (a) any live performance; or
 - (b) any live display of nudity;which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means).
- (3) The following are not sexual entertainment venues for the purposes of this Schedule--

- (a) sex cinemas and sex shops;
 - (b) premises at which the provision of relevant entertainment as mentioned in sub-paragraph (1) is such that, at the time in question and including any relevant entertainment which is being so provided at that time--
 - (i) there have not been more than eleven occasions on which relevant entertainment has been so provided which fall (wholly or partly) within the period of 12 months ending with that time;
 - (ii) no such occasion has lasted for more than 24 hours; and
 - (iii) no such occasion has begun within the period of one month beginning with the end of any previous occasion on which relevant entertainment has been so provided (whether or not that previous occasion falls within the 12 month period mentioned in sub-paragraph (i));
 - (c) premises specified or described in an order made by the relevant national authority.
- (4) The relevant national authority may by order amend or repeal sub-paragraph (3)(b).
- (5) But no order under sub-paragraph (4) may--
- (a) increase the number or length of occasions in any period on which sub-paragraph (3)(b) as originally enacted would permit relevant entertainment to be provided; or
 - (b) provide for shorter intervals between such occasions.
- (6) The relevant national authority may by order provide for descriptions of performances, or of displays of nudity, which are not to be treated as relevant entertainment for the purposes of this Schedule.
- (7) Any power of the relevant national authority to make an order under this paragraph--
- (a) is exercisable by statutory instrument;
 - (b) may be exercised so as to make different provision for different cases or descriptions of case or for different purposes; and
 - (c) includes power to make supplementary, incidental, consequential, transitional, transitory or saving provision.
- (8) A statutory instrument containing an order under sub-paragraph (4) may not be made by the Secretary of State unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (9) A statutory instrument containing an order made under sub-paragraph (3)(c) or (6) by the Secretary of State is subject to annulment in pursuance of a resolution of either House of Parliament.
- (10) A statutory instrument containing an order under sub-paragraph (4) may not be made by the Welsh Ministers unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.
- (11) A statutory instrument containing an order made under sub-paragraph (3)(c) or (6) by the Welsh Ministers is subject to annulment in pursuance of a resolution of the National Assembly for Wales.
- (12) For the purposes of this paragraph relevant entertainment is provided if, and only if, it is provided, or permitted to be provided, by or on behalf of the organiser.
- (13) For the purposes of this Schedule references to the use of any premises as a sexual entertainment venue are to be read as references to their use by the organiser.

(14) In this paragraph--

"audience" includes an audience of one;

"display of nudity" means--

- (a) in the case of a woman, exposure of her nipples, pubic area, genitals or anus; and
- (b) in the case of a man, exposure of his pubic area, genitals or anus;

"the organiser", in relation to the provision of relevant entertainment at premises, means any person who is responsible for the organisation or management of--

- (a) the relevant entertainment; or
- (b) the premises;

"premises" includes any vessel, vehicle or stall but does not include any private dwelling to which the public is not admitted;

"relevant national authority" means--

- (a) in relation to England, the Secretary of State; and
- (b) in relation to Wales, the Welsh Ministers;

and for the purposes of sub-paragraphs (1) and (2) it does not matter whether the financial gain arises directly or indirectly from the performance or display of nudity.]

Meaning of "sex cinema"

3

(1) In this Schedule, "sex cinema" means any premises, vehicle, vessel or stall used to a significant degree for the exhibition of moving pictures, by whatever means produced, which--

(a) are concerned primarily with the portrayal of, or primarily deal with or relate to, or are intended to stimulate or encourage--

- (i) sexual activity; or
- (ii) acts of force or restraint which are associated with sexual activity; or

(b) are concerned primarily with the portrayal of, or primarily deal with or relate to, genital organs or urinary or excretory functions,

but does not include a dwelling-house to which the public is not admitted.

(2) No premises shall be treated as a sex cinema by reason only--

[(a) if they may be used for an exhibition of a film (within the meaning of paragraph 15 of Schedule 1 to the Licensing Act 2003) by virtue of an authorisation (within the meaning of section 136 of that Act), of their use in accordance with that authorisation]; or

[(b) of their use for an exhibition to which section 6 of that Act (certain non-commercial exhibitions) applies given by an exempted organisation within the meaning of section 6(6) of [the Cinemas Act 1985]].

[3A

...]

[Meaning of "hostess bar"

3B

- (1) Subject to sub-paragraph (2) below, in this Schedule "hostess bar" means--
 - (a) any premises used for a business which consists, whether in whole or in part, of the offering, expressly or by implication, whether on payment of a fee or not, of the provision of companions for customers on the premises; or
 - (b) any premises in respect of which any impression, by whatever means, is given to customers, or potential customers, that a performance, entertainment, service, exhibition or other experience of a sexual nature is available on the said premises; or
 - (c) any premises in respect of which any impression, by whatever means, is given to customers, or potential customers, that alcoholic refreshments are available on the said premises despite the premises not being the subject of a premises licence or a club certificate under the 2003 Act.
- (2) The following premises are not hostess bars for the purposes of this paragraph, namely--
 - (a) premises in which the sale to customers for consumption of alcohol is not a licensable activity under or by virtue of the 2003 Act;
 - (b) premises in respect of which there is in force--
 - (i) a licence granted by the council under section 21 (licensing of public exhibitions, etc) of the Greater London Council (General Powers) Act 1966 (c xxviii);
 - (ii) a premises licence granted under Part 3 of the 2003 Act;
 - (iii) a club premises certificate granted under Part 4 of the 2003 Act;
 - (iv) a temporary event notice given under the 2003 Act, by virtue of which the premises may be used for the supply of alcohol (within the meaning of section 14 of that Act);
 - (v) a licence under Part II of the Gaming Act 1968 (c 65),
- (3) Sub-paragraph (2)(b) applies--
 - (a) only during the hours permitted by the licence or notice there mentioned, and
 - (b) only if provided that the premises are in use wholly or mainly and bona fide for the purpose authorised by the licence, notice or certificate.
- (4) In sub-paragraph (1) above, "premises" includes any vehicle, vessel or stall.
- (5) In this paragraph, "the 2003 Act" means the Licensing Act 2003 (c 17).]

Meaning of "sex shop" and "sex article"

4

- (1) In this Schedule "sex shop" means any premises, vehicle, vessel or stall used for a business which

consists to a significant degree of selling, hiring, exchanging, lending, displaying or demonstrating--

- (a) sex articles; or
- (b) other things intended for use in connection with, or for the purpose of stimulating or encouraging--
 - (i) sexual activity; or
 - (ii) acts of force or restraint which are associated with sexual activity.

(2) No premises shall be treated as a sex shop by reason only of their use for the exhibition of moving pictures by whatever means produced.

(3) In this Schedule "sex article" means--

- (a) anything made for use in connection with, or for the purpose of stimulating or encouraging--
 - (i) sexual activity; or
 - (ii) acts of force or restraint which are associated with sexual activity; and
- (b) anything to which sub-paragraph (4) below applies.

(4) This sub-paragraph applies--

- (a) to any article containing or embodying matter to be read or looked at or anything intended to be used, either alone or as one of a set, for the reproduction or manufacture of any such article; and
- (b) to any recording of vision or sound, which--
 - (i) is concerned primarily with the portrayal of, or primarily deals with or relates to, or is intended to stimulate or encourage, sexual activity or acts of force or restraint which are associated with sexual activity; or
 - (ii) is concerned primarily with the portrayal of, or primarily deals with or relates to, genital organs, or urinary or excretory functions.

Miscellaneous definitions

5

(1) In this Schedule--

"the appropriate authority" means, in relation to any area for which a resolution has been passed under section 2 above, the local authority who passed it;

"the chief officer of police", in relation to any locality, means the chief officer of police for the police area in which the locality is situated; and

"vessel" includes any ship, boat, raft or other apparatus constructed or adapted for floating on water.

(2) This Schedule applies to hovercraft as it applies to vessels.

Requirement for licences for sex establishments

6

(1) Subject to the provisions of this Schedule, no person shall in any area in which this Schedule is in force use any premises, vehicle, vessel or stall as a sex establishment except under and in accordance with the terms of a licence granted under this Schedule by the appropriate authority.

(2) Sub-paragraph (1) above does not apply to the sale, supply or demonstration of articles which--

- (a) are manufactured for use primarily for the purposes of birth control; or
- (b) primarily relate to birth control.

7

(1) Any person who--

- (a) uses any premises, vehicle, vessel or stall as a sex establishment; or
- (b) proposes to do so,

may apply to the appropriate authority for them to waive the requirement of a licence.

(2) An application under this paragraph may be made either as part of an application for a licence under this Schedule or without any such application.

(3) An application under this paragraph shall be made in writing and shall contain the particulars specified in paragraph 10(2) to (5) below and such particulars as the appropriate authority may reasonably require in addition.

(4) The appropriate authority may waive the requirement of a licence in any case where they consider that to require a licence would be unreasonable or inappropriate.

(5) A waiver may be for such period as the appropriate authority think fit.

(6) Where the appropriate authority grant an application for a waiver, they shall give the applicant for the waiver notice that they have granted his application.

(7) The appropriate authority may at any time give a person who would require a licence but for a waiver notice that the waiver is to terminate on such date not less than 28 days from the date on which they give the notice as may be specified in the notice.

Grant, renewal and transfer of licences for sex establishments

8

[(1)] Subject to [sub-paragraph (2) and] paragraph 12(1) below, the appropriate authority may grant to any applicant, and from time to time renew, a licence under this Schedule for the use of any premises, vehicle, vessel or stall specified in it for a sex establishment on such terms and conditions and subject to such restrictions as may be so specified.

[(2) No term, condition or restriction may be specified under sub-paragraph (1) above in so far as it relates to any matter in relation to which requirements or prohibitions are or could be imposed by or under the Regulatory Reform (Fire Safety) Order 2005 in respect of the premises, vehicle, vessel or stall.]

9

(1) Subject to paragraphs 11 and 27 below, any licence under this Schedule shall, unless previously cancelled under paragraph 16 [or 27A below] or revoked under paragraph 17(1) below, remain in force for one year or for such shorter period specified in the licence as the appropriate authority may think fit.

(2) Where a licence under this Schedule has been granted to any person, the appropriate authority may, if they think fit, transfer that licence to any other person on the application of that other person.

10

(1) An application for the grant, renewal or transfer of a licence under this Schedule shall be made in writing to the appropriate authority.

(2) An application made otherwise than by or on behalf of a body corporate or an unincorporated body shall state--

- (a) the full name of the applicant;
- (b) his permanent address; and
- (c) his age.

(3) An application made by a body corporate or an unincorporated body shall state--

- (a) the full name of the body;
- (b) the address of its registered or principal office; and
- (c) the full names and private addresses of the directors or other persons responsible for its management.

(4) An application relating to premises shall state the full address of the premises.

(5) An application relating to a vehicle, vessel or stall shall state where it is to be used as a sex establishment.

(6) Every application shall contain such particulars as the appropriate authority may reasonably require in addition to any particulars required under sub-paragraphs (2) to (5) above.

(7) An applicant for the grant, renewal or transfer of a licence under this Schedule shall give public notice of the application.

(8) Notice shall in all cases be given by publishing an advertisement in a local newspaper circulating in the appropriate authority's area.

(9) The publication shall not be later than 7 days after the date of the application.

(10) Where the application is in respect of premises, notice of it shall in addition be displayed for 21 days beginning with the date of the application on or near the premises and in a place where the notice can conveniently be read by the public.

(11) Every notice under this paragraph which relates to premises shall identify the premises.

(12) Every such notice which relates to a vehicle vessel or stall shall specify where it is to be used as a sex establishment.

(13) Subject to sub-paragraphs (11) and (12) above, a notice under this paragraph shall be in such form as the appropriate authority may prescribe.

[(14) A copy of an application for the grant, renewal or transfer of a licence under this Schedule shall be sent to the chief officer of police--

- (a) in a case where the application is made by means of a relevant electronic facility, by the

appropriate authority not later than 7 days after the date the application is received by the authority;

(b) in any other case, by the applicant not later than 7 days after the date of the application.

(14A) In sub-paragraph (14) above "relevant electronic facility" means--

(a) the electronic assistance facility referred to in regulation 38 of the Provision of Services Regulations 2009, or

(b) any facility established and maintained by the appropriate authority for the purpose of receiving applications under this Schedule electronically.]

(15) Any person objecting to an application for the grant, renewal or transfer of a licence under this Schedule shall give notice in writing of his objection to the appropriate authority, stating in general terms the grounds of the objection, not later than 28 days after the date of the application.

(16) Where the appropriate authority receive notice of any objection under sub-paragraph (15) above, the authority shall, before considering the application, give notice in writing of the general terms of the objection to the applicant.

(17) The appropriate authority shall not without the consent of the person making the objection reveal his name or address to the applicant.

(18) In considering any application for the grant, renewal or transfer of a licence the appropriate authority shall have regard to any observations submitted to them by the chief officer of police and any objections of which notice has been sent to them under sub-paragraph (15) above.

(19) The appropriate authority shall give an opportunity of appearing before and of being heard by a committee or sub-committee of the authority--

(a) before refusing to grant a licence, to the applicant;

(b) before refusing to renew a licence, to the holder; and

(c) before refusing to transfer a licence, to the holder and the person to whom he desires that it shall be transferred.

(20) Where the appropriate authority refuse to grant, renew or transfer a licence, they shall. . . give him a statement in writing of the reasons for their decision. . .

11

(1) Where, before the date of expiry of a licence, an application has been made for its renewal, it shall be deemed to remain in force notwithstanding that the date has passed until the withdrawal of the application or its determination by the appropriate authority.

(2) Where, before the date of expiry of a licence, an application has been made for its transfer, it shall be deemed to remain in force with any necessary modifications until the withdrawal of the application or its determination, notwithstanding that the date has passed or that the person to whom the licence is to be transferred if the application is granted is carrying on the business of the sex establishment.

Refusal of licences

12

(1) A licence under this Schedule shall not be granted--

(a) to a person under the age of 18; or

- (b) to a person who is for the time being disqualified under paragraph 17(3) below; or
 - (c) to a person, other than a body corporate, who is not resident in [an EEA state] or was not so resident throughout the period of six months immediately preceding the date when the application was made; or
 - (d) to a body corporate which is not incorporated in [an EEA state]; or
 - (e) to a person who has, within a period of 12 months immediately preceding the date when the application was made, been refused the grant or renewal of a licence for the premises, vehicle, vessel or stall in respect of which the application is made, unless the refusal has been reversed on appeal.
- (2) Subject to paragraph 27 below, the appropriate authority may refuse--
- (a) an application for the grant or renewal of a licence on one or more of the grounds specified in sub-paragraph (3) below;
 - (b) an application for the transfer of a licence on either or both of the grounds specified in paragraphs (a) and (b) of that sub-paragraph.
- (3) The grounds mentioned in sub-paragraph (2) above are--
- (a) that the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;
 - (b) that if the licence were to be granted, renewed or transferred the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant, renewal or transfer of such a licence if he made the application himself;
 - [(c) that the number of sex establishments, or of sex establishments of a particular kind, in the relevant locality at the time the application is determined is equal to or exceeds the number which the authority consider is appropriate for that locality;]
 - (d) that the grant or renewal of the licence would be inappropriate, having regard--
 - (i) to the character of the relevant locality; or
 - (ii) to the use to which any premises in the vicinity are put; or
 - (iii) to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.
- (4) Nil may be an appropriate number for the purposes of sub-paragraph (3)(c) above.
- (5) In this paragraph "the relevant locality" means--
- (a) in relation to premises, the locality where they are situated; and
 - (b) in relation to a vehicle, vessel or stall, any locality where it is desired to use it as a sex establishment.

Power to prescribe standard conditions

13

- (1) Subject to the provisions of this Schedule, the appropriate authority may make regulations prescribing standard conditions applicable to licences for sex establishments, that is to say, terms,

conditions and restrictions on or subject to which licences under this Schedule are in general to be granted, renewed or transferred by them.

[(1A) No standard condition may be prescribed by regulation under sub-paragraph (1) above in so far as it relates to any matter in relation to which requirements or prohibitions are or could be imposed by or under the Regulatory Reform (Fire Safety) Order 2005.]

(2) Regulations under sub-paragraph (1) above may make different provision--

- (a) for [sexual entertainment venues,] sex cinemas[. . .][, hostess bars] and sex shops; and
- (b) for different kinds of [sexual entertainment venues,] sex cinemas[. . .][, hostess bars] and sex shops.

(3) Without prejudice to the generality of sub-paragraphs (1) and (2) above, regulations under this paragraph may prescribe conditions regulating--

- (a) the hours of opening and closing of sex establishments;
- (b) displays or advertisements on or in such establishments;
- (c) the visibility of the interior of sex establishments to passers-by; and
- [(d) any change from one kind of sex establishment mentioned in sub-paragraph (2)(a) above to another kind of sex establishment so mentioned].

(4) Where the appropriate authority have made regulations under sub-paragraph (1) above, every such licence granted, renewed or transferred by them shall be presumed to have been so granted, renewed or transferred subject to any standard conditions applicable to it unless they have been expressly excluded or varied.

(5) Where the appropriate authority have made regulations under sub-paragraph (1) above, they shall, if so requested by any person, supply him with a copy of the regulations on payment of such reasonable fee as the authority may determine.

(6) In any legal proceedings the production of a copy of any regulations made by the appropriate authority under sub-paragraph (1) above purporting to be certified as a true copy by an officer of the authority authorised to give a certificate for the purposes of this paragraph shall be prima facie evidence of such regulations, and no proof shall be required of the handwriting or official position or authority of any person giving such certificate.

Copies of licences and standard conditions

14

(1) The holder of a licence under this Schedule shall keep exhibited in a suitable place to be specified in the licence a copy of the licence and any regulations made under paragraph 13(1) above which prescribe standard conditions subject to which the licence is held.

(2) The appropriate authority shall send a copy of any licence granted under this Schedule to the chief officer of police for the area where the sex establishment is situated.

Transmission and cancellation of licences

15

In the event of the death of the holder of a licence granted under this Schedule, that licence shall be deemed to have been granted to his personal representatives and shall, unless previously revoked,

remain in force until the end of the period of 3 months beginning with the death and shall then expire; but the appropriate authority may from time to time, on the application of those representatives, extend or further extend the period of three months if the authority are satisfied that the extension is necessary for the purpose of winding up the deceased's estate and that no other circumstances make it undesirable.

16

The appropriate authority may, at the written request of the holder of a licence, cancel the licence.

Revocation of licences

17

(1) The appropriate authority may, after giving the holder of a licence under this Schedule an opportunity of appearing before and being heard by them, at any time revoke the licence--

- (a) on any ground specified in sub-paragraph (1) of paragraph 12 above; or
- (b) on either of the grounds specified in sub-paragraph (3)(a) and (b) of that paragraph.

(2) Where a licence is revoked, the appropriate authority shall, if required to do so by the person who held it, give him a statement in writing of the reasons for their decision within 7 days of his requiring them to do so.

(3) Where a licence is revoked, its holder shall be disqualified from holding or obtaining a licence in the area of the appropriate authority for a period of 12 months beginning with the date of revocation.

Variation of licences

18

(1) The holder of a licence under this Schedule may at any time apply to the appropriate authority for any such variation of the terms, conditions or restrictions on or subject to which the licence is held as may be specified in the application.

(2) [Subject to sub-paragraph (4) below,] the appropriate authority--

- (a) may make the variation specified in the application; or
- (b) may make such variations as they think fit; or
- (c) may refuse the application.

(3) The variations that an authority may make by virtue of sub-paragraph (2)(b) above include, without prejudice to the generality of that sub-paragraph, variations involving the imposition of terms, conditions or restrictions other than those specified in the application.

[(4) No variation is to be made under this paragraph in so far as it relates to any matter in relation to which requirements or prohibitions are or could be imposed by or under the Regulatory Reform (Fire Safety) Order 2005.]

Fees

19

An application for the grant, [variation,] renewal[. . .] or transfer of a licence under this Schedule shall pay a reasonable fee determined by the appropriate authority.

Enforcement

20

- (1) A person who--
- (a) knowingly uses, or knowingly causes or permits the use of, any premises, vehicle, vessel or stall contrary to paragraph 6 above; or
 - (b) being the holder of a licence for a sex establishment, employs in the business of the establishment any person known to him to be disqualified from holding such a licence; or
 - (c) being the holder of a licence under this Schedule, without reasonable excuse knowingly contravenes, or without reasonable excuse knowingly permits the contravention of, a term, condition or restriction specified in the licence; or
 - (d) being the servant or agent of the holder of a licence under this Schedule, without reasonable excuse knowingly contravenes, or without reasonable excuse knowingly permits the contravention of, a term, condition or restriction specified in the licence,

shall be guilty of an offence.

21

Any person who, in connection with an application for the grant, renewal or transfer of a licence under this Schedule, makes a false statement which he knows to be false in any material respect or which he does not believe to be true, shall be guilty of an offence.

22

- (1) A person guilty of an offence under paragraph 20 or 21 above shall be liable on summary conviction to a fine not exceeding [£20,000].
- (2) A person who, being the holder of a licence under this Schedule, fails without reasonable excuse to comply with paragraph 14(1) above shall be guilty of an offence and liable on summary conviction to a fine not exceeding [level 3 on the standard scale].

Offences relating to persons under 18

23

- (1) A person who, being the holder of a licence for a sex establishment--
- (a) without reasonable excuse knowingly permits a person under 18 years of age to enter the establishment; or
 - (b) employs a person known to him to be under 18 years of age in the business of the establishment,

shall be guilty of an offence.

- (2) A person guilty of an offence under this paragraph shall be liable on summary conviction to a fine not exceeding [£20,000].

Powers of constables and local authority officers

24

...

25

- (1) A constable may, at any reasonable time, enter and inspect any sex establishment in respect of which a licence under this Schedule is for the time being in force, with a view to seeing--
- (i) whether the terms, conditions or restrictions on or subject to which the licence is held are complied with;
 - (ii) whether any person employed in the business of the establishment is disqualified from holding a licence under this Schedule;
 - (iii) whether any person under 18 years of age is in the establishment; and
 - (iv) whether any person under that age is employed in the business of the establishment.
- (2) Subject to sub-paragraph (4) below, a constable may enter and inspect a sex establishment if he has reason to suspect that an offence under paragraph 20, 21 or 23 above has been, is being, or is about to be committed in relation to it.
- (3) An authorised officer of a local authority may exercise the powers conferred by sub-paragraphs (1) and (2) above in relation to a sex establishment in the local authority's area.
- (4) No power conferred by sub-paragraph (2) above may be exercised by a constable or an authorised officer of a local authority unless he has been authorised to exercise it by a warrant granted by a justice of the peace.
- (5) Where an authorised officer of a local authority exercises any such power, he shall produce his authority if required to do so by the occupier of the premises or the person in charge of the vehicle, vessel or stall in relation to which the power is exercised.
- (6) Any person who without reasonable excuse refuses to permit a constable or an authorised officer of a local authority to exercise any such power shall be guilty of an offence and shall for every such refusal be liable on summary conviction to a fine not exceeding [level 5 on the standard scale].
- [(7) ...
- (8) ...
- (9) ...
- (10) ...
- (11) ...]

[25A

- (1) A person acting under the authority of a warrant under paragraph 25(4) may seize and remove anything found on the premises concerned that the person reasonably believes could be forfeited under sub-paragraph (4).
- (2) The person who, immediately before the seizure, had custody or control of anything seized under sub-paragraph (1) may request any authorised officer of a local authority who seized it to provide a record of what was seized.
- (3) The authorised officer must provide the record within a reasonable time of the request being made.
- (4) The court by or before which a person is convicted of an offence under paragraph 20 or 23 of this Schedule may order anything--

- (a) produced to the court; and
- (b) shown to the satisfaction of the court to relate to the offence;

to be forfeited and dealt with in such manner as the court may order.

(5) But the court may not order the forfeiture of anything under sub-paragraph (4) if it (whether alone or taken together with other things being forfeited which appear to the court to have been in the custody or control of the same person) is worth more than the amount of the maximum fine specified in paragraph 22(1).

(6) Sub-paragraph (7) applies if a person claiming to be the owner of, or otherwise interested in, anything that may be forfeited applies to be heard by the court.

(7) The court may not order the forfeiture unless the person has had an opportunity to show why the order should not be made.]

Offences by bodies corporate

26

(1) Where an offence under this Schedule committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of the offence.

(2) Where the affairs of a body corporate are managed by its members sub-paragraph (1) above shall apply to the acts and defaults of a member in connection with his function of management as if he were a director of the body corporate.

Appeals

27

(1) Subject to sub-paragraphs (2) and (3) below, any of the following persons, that is to say--

- (a) an applicant for the grant, renewal or transfer of a licence under this Schedule whose application is refused;
- (b) an applicant for the variation of the terms, conditions or restrictions on or subject to which any such licence is held whose application is refused;
- (c) a holder of any such licence who is aggrieved by any term, condition or restriction on or subject to which the licence is held; or
- (d) a holder of any such licence whose licence is revoked,

may at any time before the expiration of the period of 21 days beginning with the relevant date appeal to [a magistrates' court].

(2) An applicant whose application for the grant or renewal of a licence is refused, or whose licence is revoked, on any ground specified in paragraph 12(1) above shall not have a right to appeal under this paragraph unless the applicant seeks to show that the ground did not apply to him.

(3) An applicant whose application for the grant or renewal of a licence is refused on either ground specified in paragraph 12(3)(c) or (d) above shall not have the right to appeal under this paragraph.

(4) In this paragraph--

. . .

"the relevant date" means the date on which the person in question is notified of the refusal of his application, the imposition of the term, condition or restriction by which he is aggrieved or the revocation of his licence, as the case may be.

- (5) An appeal against the decision of a magistrates' court under this paragraph may be brought to the Crown Court.
- (6) Where an appeal is brought to the Crown Court under sub-paragraph (5) above, the decision of the Crown Court shall be final: . . .
- (7) On an appeal to the magistrates' court or the Crown Court under this paragraph the court may make such order as it thinks fit.
- (8) Subject to sub-paragraphs (9) to (12) below, it shall be the duty of the appropriate authority to give effect to an order of the magistrates' court or the Crown Court.
- (9) The appropriate authority need not give effect to the order of the magistrates' court until the time for bringing an appeal under sub-paragraph (5) above has expired and, if such an appeal is duly brought, until the determination or abandonment of the appeal.
- (10) Where a licence is revoked or an application for the renewal of a licence is refused [. . .], the licence shall be deemed to remain in force--
- (a) until the time for bringing an appeal under this paragraph has expired and, if such an appeal is duly brought, until the determination or abandonment of the appeal; and
- (b) where an appeal relating to the refusal of an application for such a renewal is successful and no further appeal is available, until the licence is renewed by the appropriate authority.
- [(10A) Sub-paragraph (10) does not apply if the grounds for refusing an application for the renewal of a licence are those set out in paragraph 12(3)(c) or (d) of this Schedule.]

- (11) Where--
- (a) the holder of a licence makes an application under paragraph 18 above; and
- (b) the appropriate authority impose any term, condition or restriction other than one specified in the application,

the licence shall be deemed to be free of it until the time for bringing an appeal under this paragraph has expired.

- (12) Where an appeal is brought under this paragraph against the imposition of any such term, condition or restriction, the licence shall be deemed to be free of it until the determination or abandonment of the appeal.

[Premises which are deemed sexual entertainment venues

27A

- (1) This paragraph applies if--
- (a) premises are subject to a licence for a sexual entertainment venue; and
- (b) their use would be use as such a venue but for the operation of paragraph 2A(3)(b).

- (2) This Schedule applies as if--
 - (a) the premises were a sexual entertainment venue; and
 - (b) the use or business of the premises was use as, or the business of, such a venue.
- (3) But the appropriate authority must cancel the licence if the holder of the licence asks them in writing to do so.
- (4) In this paragraph "premises" has the same meaning as in paragraph 2A.]

Provisions relating to existing premises

28

- (1) Without prejudice to any other enactment it shall be lawful for any person who--
 - (a) was using any premises, vehicle, vessel or stall as a sex establishment immediately before the date of the first publication under subsection (2) of section 2 above of a notice of the passing of a resolution under that section by the local authority for the area; and
 - (b) had before the appointed day duly applied to the appropriate authority for a licence for the establishment,

to continue to use the premises, vehicle, vessel or stall as a sex establishment until the determination of his application [. . .].

- (2) In this paragraph and paragraph 29 below "the appointed day", in relation to any area, means the day specified in the resolution passed under section 2 above as the date upon which this Schedule is to come into force in that area.

29

- (1) This paragraph applies to an application for the grant of a licence under this Schedule made before the appointed day.
- (2) A local authority shall not consider any application to which this paragraph applies before the appointed day.
- (3) A local authority shall not grant any application to which this paragraph applies until they have considered all such applications.
- (4) In considering which of several applications to which this paragraph applies should be granted a local authority shall give preference over other applicants to any applicant who satisfies them--
 - (a) that he is using the premises, vehicle, vessel or stall to which the application relates as a sex establishment; and
 - (b) that some person was using the premises, vehicle, vessel or stall as a sex establishment on 22nd December 1981; and
 - (c) that--
 - (i) he is that person; or
 - (ii) he is a successor of that person in the business or activity which was being carried on there on that date.

Commencement of Schedule

30

- (1) So far as it relates to sex cinemas, this Schedule shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint, . . .
- (2) Subject to sub-paragraph (1) above, this Schedule shall come into force on the day on which this Act is passed.
- (3) Where, in relation to any area, the day appointed under sub-paragraph (1) above falls after the day specified in a resolution passed under section 2 above as the day upon which this Schedule is to come into force in that area, the day so appointed shall, for the purposes of paragraphs 28 and 29 above, be the appointed day in relation to sex cinemas in the area.

NOTES

Initial Commencement

Specified date

Specified date (for certain purposes): 13 July 1982: see para 30(2) above.

To be appointed

To be appointed (for remaining purposes): see para 30(1) above.

Appointment

Appointment (for remaining purposes): 13 October 1982: see SI 1982/1119, art 2.

Extent

This Schedule does not extend to Scotland: see s 49(2).

Amendment

Para 13: sub-para (3)(d) substituted in relation to certain London Boroughs by the Greater London Council (General Powers) Act 1986, s 12(4)(f); with effect from a date to be determined in accordance with sub-ss (1)-(3) thereof.

Para 12: in sub-para (3)(c) word "made" repealed and subsequent word in square brackets substituted in relation to certain London Boroughs by the Greater London Council (General Powers) Act 1986, s 12(4)(c), with effect from a date to be determined in accordance with sub-ss (1)-(3) thereof.

Para 1: in sub-para (b)(ii) words "section 5 of" in italics repealed and subsequent words in square brackets substituted by the Police and Justice Act 2006, s 52, Sch 14, para 7.

Date in force: to be appointed: see the Police and Justice Act 2006, s 53(1)(b).

Para 2: words "sexual entertainment venue," in square brackets inserted by the Policing and Crime Act 2009, s 27(1), (2).

Date in force (in relation to England): 6 April 2010: see SI 2010/722, art 3(a); for transitional provisions and savings see arts 4-12 thereof and the Policing and Crime Act 2009, s 27(11), Sch 3.

Date in force (in relation to Wales): 8 May 2010: see SI 2010/1375, art 3(a); for transitional provisions see the Policing and Crime Act 2009, s 27(11), Sch 3.

Para 2: words omitted in square brackets inserted in relation to certain London Boroughs by the Greater

London Council (General Powers) Act 1986, s 12(4)(a), with effect from a date determined in accordance with sub-ss (1)-(3) thereof.

Para 2: words omitted repealed by SI 2010/723, art 2(1)(b).

Date in force: 6 April 2010: see SI 2010/723, art 1(2); for savings see art 2(2)-(6) thereof.

Para 2: words ", a hostess bar" in square brackets inserted by the London Local Authorities Act 2007, s 33(2), (3).

Date in force (in relation to the City of Westminster): 19 September 2007: see the London Local Authorities Act 2007, s 33(1)(a).

Date in force (in relation to the London Borough of Newham): 1 January 2008: see the London Gazette, 28 November 2007.

Date in force (in relation to the London Borough of Bexley): 1 April 2008: see the London Gazette, 28 February 2008.

Date in force (for remaining purposes): to be appointed: see the London Local Authorities Act 2007, ss 1(3)(a), (4), 33(1)(b).

Para 2A: inserted by the Policing and Crime Act 2009, s 27(1), (3).

Date in force (in relation to England): 6 April 2010: see SI 2010/722, art 3(a); for transitional provisions and savings see arts 4-12 thereof and the Policing and Crime Act 2009, s 27(11), Sch 3.

Date in force (in relation to Wales): 8 May 2010: see SI 2010/1375, art 3(a); for transitional provisions see the Policing and Crime Act 2009, s 27(11), Sch 3.

Para 3: sub-para (2)(a) substituted by the Licensing Act 2003, s 198(1), Sch 6, paras 82, 85(1), (2)(a).

Date in force: 24 November 2005: see SI 2005/3056, arts 1(2), 2(2); for transitional provisions see the Licensing Act 2003, s 200, Sch 8, Pt 1.

Para 3: sub-para (2)(b) substituted by the Cinemas Act 1985, s 24(1), Sch 2, para 16(b).

Para 3: in sub-para (2)(b) words "the Cinemas Act 1985" in square brackets substituted by the Licensing Act 2003, s 198(1), Sch 6, paras 82, 85(1), (2)(b).

Date in force: 24 November 2005: see SI 2005/3056, arts 1(2), 2(2); for transitional provisions and savings see the Licensing Act 2003, s 200, Sch 8, Pt 1, Pt 4, para 32.

Para 3A: inserted in relation to certain London Boroughs by the Greater London Council (General Powers) Act 1986, s 12(4)(b), with effect from a date determined in accordance with sub-ss (1)-(3) thereof.

Para 3A: repealed by SI 2010/723, art 2(1)(b).

Date in force: 6 April 2010: see SI 2010/723, art 1(2); for savings see art 2(2)-(6) thereof.

Para 3B: inserted by the London Local Authorities Act 2007, s 33(2), (5).

Date in force (in relation to the City of Westminster): 19 September 2007: see the London Local Authorities Act 2007, s 33(1)(a).

Date in force (in relation to the London Borough of Newham): 1 January 2008: see the London Gazette, 28 November 2007.

Date in force (in relation to the London Borough of Bexley): 1 April 2008: see the London Gazette, 28 February 2008.

Date in force (for remaining purposes): to be appointed: see the London Local Authorities Act 2007, ss 1(3)(a), (4), 33(1)(b).

Para 8: sub-para (1) numbered as such by SI 2005/1541, art 53(1), Sch 2, para 26(1), (3)(a)(i).

Date in force: 1 October 2006: see SI 2005/1541, art 1(3) (as amended by SI 2006/484, art 2).

Para 8: in sub-para (1) words "sub-paragraph (2) and" in square brackets inserted by SI 2005/1541, art 53(1), Sch 2, para 26(1), (3)(a)(ii).

Date in force: 1 October 2006: see SI 2005/1541, art 1(3) (as amended by SI 2006/484, art 2).

Para 8: sub-para (2) inserted by SI 2005/1541, art 53(1), Sch 2, para 26(1), (3)(a)(iii).

Date in force: 1 October 2006: see SI 2005/1541, art 1(3) (as amended by SI 2006/484, art 2).

Para 9: in sub-para (1) words "or 27A below" in square brackets inserted by the Policing and Crime Act 2009, s 27(1), (4).

Date in force (in relation to England): 6 April 2010: see SI 2010/722, art 3(a); for transitional provisions and savings see arts 4-12 thereof and the Policing and Crime Act 2009, s 27(11), Sch 3.

Date in force (in relation to Wales): 8 May 2010: see SI 2010/1375, art 3(a); for transitional provisions see the Policing and Crime Act 2009, s 27(11), Sch 3.

Para 10: sub-paras (14), (14A) substituted, for sub-para (14) as originally enacted, by SI 2009/2999, reg 47(1), (2).

Date in force: 28 December 2009: see SI 2009/2999, reg 1(2).

Para 10: in sub-para (20) first words omitted repealed by SI 2009/2999, reg 47(1), (3)(a).

Date in force: 28 December 2009: see SI 2009/2999, reg 1(2).

Para 10: in sub-para (20) second words omitted repealed by SI 2009/2999, reg 47(1), (3)(b).

Date in force: 28 December 2009: see SI 2009/2999, reg 1(2).

Para 12: in sub-paras (1)(c), (d) words "an EEA state" in square brackets substituted by SI 2009/2999, reg 47(1), (4).

Date in force: 28 December 2009: see SI 2009/2999, reg 1(2).

Para 12: sub-para (3)(c) substituted by the Policing and Crime Act 2009, s 27(1), (5).

Date in force (in relation to England): 6 April 2010: see SI 2010/722, art 3(a); for transitional provisions and savings see arts 4-12 thereof and the Policing and Crime Act 2009, s 27(11), Sch 3.

Date in force (in relation to Wales): 8 May 2010: see SI 2010/1375, art 3(a); for transitional provisions see the Policing and Crime Act 2009, s 27(11), Sch 3 and SI 2010/1395, art 9(1).

Para 13: sub-para (1A) inserted by SI 2005/1541, art 53(1), Sch 2, para 26(1), (3)(b).

Date in force: 1 October 2006: see SI 2005/1541, art 1(3) (as amended by SI 2006/484, art 2).

Para 13: in sub-para (2)(a) words "sexual entertainment venues," in square brackets inserted by the Policing and Crime Act 2009, s 27(1), (6)(a).

Date in force (in relation to England): 6 April 2010: see SI 2010/722, art 3(a); for transitional provisions and savings see arts 4-12 thereof and the Policing and Crime Act 2009, s 27(11), Sch 3.

Date in force (in relation to Wales): 8 May 2010: see SI 2010/1375, art 3(a); for transitional provisions see the Policing and Crime Act 2009, s 27(11), Sch 3.

Para 13: in sub-para (2)(a), (b) words omitted in square brackets inserted in relation to certain London Boroughs by the Greater London Council (General Powers) Act 1986, s 12(4)(d), (e); with effect from a date to be determined in accordance with sub-ss (1)-(3) thereof.

Para 13: in sub-para (2)(a), (b) words omitted repealed by SI 2010/723, art 2(1)(b).

Date in force: 6 April 2010: see SI 2010/723, art 1(2); for savings see art 2(2)-(6) thereof.

Para 13: in sub-para (2) words ", hostess bars" in square brackets, in both places they occur, inserted by the London Local Authorities Act 2007, s 33(2), (6).

Date in force (in relation to the City of Westminster): 19 September 2007: see the London Local Authorities Act 2007, s 33(1)(a).

Date in force (in relation to the London Borough of Newham): 1 January 2008: see the London Gazette, 28 November 2007.

Date in force (in relation to the London Borough of Bexley): 1 April 2008: see the London Gazette, 28 February 2008.

Date in force (for remaining purposes): to be appointed: see the London Local Authorities Act 2007, ss 1(3)(a), (4), 33(1)(b).

Para 13: in sub-para (2)(b) words "sexual entertainment venues," in square brackets inserted by the Policing and Crime Act 2009, s 27(1), (6)(b).

Date in force (in relation to England): 6 April 2010: see SI 2010/722, art 3(a); for transitional provisions and savings see arts 4-12 thereof and the Policing and Crime Act 2009, s 27(11), Sch 3.

Date in force (in relation to Wales): 8 May 2010: see SI 2010/1375, art 3(a); for transitional provisions see the Policing and Crime Act 2009, s 27(11), Sch 3.

Para 13: sub-para (3)(d) further substituted by the Policing and Crime Act 2009, s 27(1), (6)(c).

Date in force (in relation to England): 6 April 2010: see SI 2010/722, art 3(a); for transitional provisions and savings see arts 4-12 thereof and the Policing and Crime Act 2009, s 27(11), Sch 3.

Date in force (in relation to Wales): 8 May 2010: see SI 2010/1375, art 3(a); for transitional provisions see the Policing and Crime Act 2009, s 27(11), Sch 3.

Para 18: in sub-para (2) words "Subject to sub-paragraph (4) below," in square brackets inserted by SI 2005/1541, art 53(1), Sch 2, para 26(1), (3)(c).

Date in force: 1 October 2006: see SI 2005/1541, art 1(3) (as amended by SI 2006/484, art 2).

Para 18: sub-para (4) inserted by SI 2005/1541, art 53(1), Sch 2, para 26(1), (3)(d).

Date in force: 1 October 2006: see SI 2005/1541, art 1(3) (as amended by SI 2006/484, art 2).

Para 19: word "variation," in square brackets inserted by the Policing and Crime Act 2009, s 27(1), (7).

Date in force (in relation to England): 6 April 2010: see SI 2010/722, art 3(a); for transitional provisions and savings see arts 4-12 thereof and the Policing and Crime Act 2009, s 27(11), Sch 3.

Date in force (in relation to Wales): 8 May 2010: see SI 2010/1375, art 3(a); for transitional provisions see the Policing and Crime Act 2009, s 27(11), Sch 3 and SI 2010/1395, art 9(2).

Para 19: word omitted in square brackets inserted in relation to certain London Boroughs by the Greater London Council (General Powers) Act 1986, s 12(4)(g), with effect from a date determined in accordance with sub-ss (1)-(3) thereof.

Para 19: word omitted repealed by SI 2010/723, art 2(1)(b).

Date in force: 6 April 2010: see SI 2010/723, art 1(2); for savings see art 2(2)-(6) thereof.

Para 22: in sub-para (1) sum in square brackets substituted by SI 1984/447; maximum fine in sub-para (2) converted to a level on the standard scale by the Criminal Justice Act 1982, ss 37, 46.

Para 23: sum in square brackets substituted by SI 1984/447.

Para 24: repealed, in so far as it empowers a constable to arrest without a warrant, by virtue of the Police and Criminal Evidence Act 1984, s 26(1).

Para 24: repealed, for remaining purposes, by the Serious Organised Crime and Police Act 2005, ss 111, 174(2), Sch 7, Pt 1, para 22, Sch 17, Pt 2.

Date in force: 1 January 2006: see SI 2005/3495, art 2(1)(m), (t), (u)(xxii).

Para 25: maximum fine in sub-para (6) converted to a level on the standard scale by the Criminal Justice Act 1982, ss 37, 46.

Para 25: sub-paras (7)-(11) inserted in relation to certain London Boroughs by the Greater London Council (General Powers) Act 1986, s 12(4)(h), with effect from a date determined in accordance with sub-ss (1)-(3) thereof.

Para 25: sub-paras (7)-(11) repealed by SI 2010/723, art 2(1)(b).

Date in force: 6 April 2010: see SI 2010/723, art 1(2); for savings see art 2(2)-(6) thereof.

Para 25A: inserted by the Policing and Crime Act 2009, s 27(1), (8).

Date in force (in relation to England): 6 April 2010: see SI 2010/722, art 3(a); for transitional provisions and savings see arts 4-12 thereof and the Policing and Crime Act 2009, s 27(11), Sch 3.

Date in force (in relation to Wales): 8 May 2010: see SI 2010/1375, art 3(a); for transitional provisions see the Policing and Crime Act 2009, s 27(11), Sch 3 and SI 2010/1395, art 9(3).

Para 27: in sub-para (1) words "a magistrates' court" in square brackets substituted by SI 2005/886, art 2, Schedule, para 41(a).

Date in force: 1 April 2005: see SI 2005/886, art 1.

Para 27: in sub-para (4) definition "the relevant area" (omitted) repealed by SI 2005/886, art 2, Schedule, para 41(b).

Date in force: 1 April 2005: see SI 2005/886, art 1.

Para 27: in sub-para (6) words omitted amend the Supreme Court Act 1981, s 28(2).

Para 27: in sub-para (10) words omitted in square brackets inserted in relation to certain London Boroughs by the Greater London Council (General Powers) Act 1986, s 12(4)(i), with effect from a date determined in accordance with sub-ss (1)-(3) thereof.

Para 27: in sub-para (10) words omitted repealed by SI 2010/723, art 2(1)(b).

Date in force: 6 April 2010: see SI 2010/723, art 1(2); for savings see art 2(2)-(6) thereof.

Para 27: sub-para (10A) inserted by the Policing and Crime Act 2009, s 27(1), (9).

Date in force (in relation to England): 6 April 2010: see SI 2010/722, art 3(a); for transitional provisions and savings see arts 4-12 thereof and the Policing and Crime Act 2009, s 27(11), Sch 3.

Date in force (in relation to Wales): 8 May 2010: see SI 2010/1375, art 3(a); for transitional provisions see the Policing and Crime Act 2009, s 27(11), Sch 3 and SI 2010/1395, art 9(4).

Para 27A: inserted by the Policing and Crime Act 2009, s 27(1), (10).

Date in force (in relation to England): 6 April 2010: see SI 2010/722, art 3(a); for transitional provisions and savings see arts 4-12 thereof and the Policing and Crime Act 2009, s 27(11), Sch 3.

Date in force (in relation to Wales): 8 May 2010: see SI 2010/1375, art 3(a); for transitional provisions see the Policing and Crime Act 2009, s 27(11), Sch 3.

Para 28: in sub-para (1) words omitted in square brackets inserted in relation to certain London Boroughs by the Greater London Council (General Powers) Act 1986, s 12(4)(j), with effect from a date determined in accordance with sub-ss (1)-(3) thereof.

Para 28: in sub-para (1) words omitted repealed by SI 2010/723, art 2(1)(b).

Date in force: 6 April 2010: see SI 2010/723, art 1(2); for savings see art 2(2)-(6) thereof.

Para 30: words omitted spent.

Transfer of Functions

Functions of the Secretary of State, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

Subordinate Legislation

Local Government (Miscellaneous Provisions) Act 1982 (Commencement No 1) Order 1982, SI 1982/1119 (made under para 30(1)).