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PROSPECTIVE

SCHEDULE 3 **E+W**

(introduced by section 59)

FURTHER PROVISION IN CONNECTION WITH SPECIAL PROCEDURE LICENCES

*Application for special procedure licence*

- 1 An application for the issue of a special procedure licence may relate to one special procedure, or more than one.
- 2 An application for a licence authorising the performance of a special procedure is to be made—
  - (a) if the applicant believes that the procedure is likely to be carried out by the applicant in the area of one local authority only, to that local authority;
  - (b) if the applicant believes that the procedure is likely to be carried out by the applicant in the areas of different local authorities, to one of those local authorities.
- 3 (1) An application—
  - (a) must specify the procedure to which it relates;
  - (b) must give whatever details the authority to which it is made may require about the basis on which the procedure is to be performed (for instance, whether it is to be performed on a peripatetic basis, on a fixed site basis, on a mobile basis, on a temporary basis, or otherwise);
  - (c) must state whether or not it is an application for a temporary licence.(2) An application—
  - (a) is to be made in whatever way the authority to which it is made may require;
  - (b) is to be accompanied by whatever fee is set by the authority.(3) That fee (if any) is to be set by the authority having regard to the costs incurred or expected to be incurred by the authority in connection with dealing with applications.
- 4 (1) An application must include the following information—
  - (a) the full name, date of birth and usual residential address of the applicant;
  - (b) any proposed trading name;
  - (c) the telephone number and e-mail address (if any) of the applicant;
  - (d) in the case of an application for the issue of a licence authorising the performance of a procedure at premises within section 59(3) (premises or vehicle occupied by or under control or management of certain persons), the address of each of the premises at which the performance of the procedure is to be authorised by the licence;
  - (e) in the case of an application for a licence authorising the performance of a procedure in a vehicle within section 59(3) that has a registration number, the registration number of the vehicle;
  - (f) in the case of an application for a licence authorising the performance of a procedure in a vehicle within section 59(3) that does not have a registration number, whatever identifying details of the vehicle the authority considers appropriate;

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- (g) any other information that the authority concerned may require, which may, for instance, include information about any offence of which the applicant has been convicted (whether or not committed under the law of England and Wales).
- (2) At any time after receiving but before determining an application, an authority may require the applicant to provide it with any further information that it considers necessary to enable it to determine the application.
- (3) That further information may include any information that the authority considers necessary for the purpose of verifying the identity of the applicant.
- (4) Regulations may—
  - (a) make provision about the way in which a local authority is to determine the amount of the fee that is to accompany an application made to it;
  - (b) make further provision about applications (including, among other things, about the way in which an application is to be made, the information to be provided, and the way in which an application is to be dealt with by an authority).

#### *Contents of special procedure licence*

- 5 (1) A special procedure licence must—
  - (a) state the name of the licence holder;
  - (b) bear a photograph of the licence holder;
  - (c) specify a residential or business address for the licence holder;
  - (d) name the authority by which the licence is issued;
  - (e) specify each procedure the performance of which is authorised by the licence;
  - (f) specify the licence period and, in the case of a temporary licence, state that it is a temporary licence.
- (2) A licence that is required, by section 59(3), to identify premises or a vehicle must (as the case may be)—
  - (a) specify the address of the premises;
  - (b) in the case of a vehicle that has a registration number, state the registration number;
  - (c) in the case of a vehicle that does not have a registration number, identify the vehicle in whatever way the authority issuing the licence considers appropriate.
- (3) Regulations may make further provision about the form and content of special procedure licences (including, among other things, about the inclusion of information about the applicable mandatory licensing conditions).

#### *Copy of licence*

- 6 (1) If a special procedure licence is mislaid, stolen, or damaged, the licence holder may apply to the authority by which it was issued for a copy.
- (2) An application under sub-paragraph (1)—
  - (a) is to be made in whatever way the authority concerned may require, and

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(b) is to be accompanied by whatever fee is set by the authority.

(3) The authority must grant the application if it is satisfied—

- (a) that the licence has been mislaid, stolen or damaged, and
- (b) that where the licence has been mislaid or stolen, the loss or theft has been reported to the police.

(4) As soon as reasonably practicable after granting an application under sub-paragraph (1), an authority is to issue a copy of the licence to the applicant.

7 A copy of a licence issued by an authority under paragraph 6 is—

- (a) to be certified by the authority as a true copy, and
- (b) to be treated for the purposes of this Part and any requirements imposed by or under it as being the original licence.

#### *Expiry of licence*

8 (1) A special procedure licence is to be treated for the purposes of this Part as expiring with whichever is the earliest of—

- (a) the end of the licence period;
- (b) the date with the expiry of which revocation of the licence has effect;
- (c) the date with the expiry of which the licence ceases to have effect under paragraph 14(3) (voluntary termination of licence);
- (d) in the case of a licence authorising the performance of a procedure by an individual who is designated under section 61 in respect of that procedure, the date on which any withdrawal of the designation takes effect.

(2) But sub-paragraph (1) is subject to paragraph 10.

#### *Renewal of licence*

9 (1) A local authority may, on an application by the licence holder, renew a special procedure licence.

(2) An application for renewal of a licence is to be made to the authority that granted the licence.

(3) An application for renewal—

- (a) is to be made in whatever way the authority concerned may require,
- (b) is to include whatever information the authority concerned may require, and
- (c) is to be accompanied by whatever fee is set by the authority.

10 If an application to renew a licence is received before the licence would but for this paragraph be treated as having expired, the licence is not to be treated as having expired while—

- (a) the application for renewal is pending;
- (b) an appeal may be brought under paragraph 18 or 19 in respect of the application;
- (c) an appeal brought in respect of the application under paragraph 18 or 19, within the period for bringing an appeal under that paragraph, remains to be determined.

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#### *Variation of licence*

- 11 (1) A local authority may, on an application to this effect by a licence holder, vary a special procedure licence issued by it.
- (2) The effect of a variation may be such as to (among other things)—
- (a) add, amend or remove a description of special procedure the performance of which is authorised by the licence;
  - (b) subject to section 59(4) (requirement that premises or vehicle be identified in licence, and approved) authorise the performance of a special procedure at premises or in a vehicle not previously identified in the licence for this purpose;
  - (c) remove a reference to premises or a vehicle previously identified in the licence.
- (3) A licence must not be varied under this paragraph so as to—
- (a) transfer the licence from the licence holder to another individual;
  - (b) extend the licence period.
- 12 (1) An application to vary a special procedure licence—
- (a) is to be made in whatever way the authority concerned may require, and
  - (b) is to be accompanied by whatever fee is set by the authority.
- (2) An application must include—
- (a) particulars of the changes proposed to be made to the licence, and
  - (b) any other information that the authority concerned may require.
- 13 (1) An application to vary a special procedure licence by adding a description of special procedure the performance of which is to be authorised by the licence—
- (a) must specify the procedure concerned, and
  - (b) is to be treated for the purposes of this Part as being an application for the issue of a special procedure licence authorising the performance of that procedure (and the date of the variation is to be treated, for the application of this Part in respect of that procedure, as being the date of the issue of a licence authorising the performance of the procedure).
- (2) But sub-paragraph (1)(b) does not apply for the purposes of the determination of the licence period.

#### *Voluntary termination of licence*

- 14 (1) Where a licence holder wishes a special procedure licence to cease to have effect, the licence holder may give notice to that effect to the authority that issued the licence.
- (2) The notice must state the date with which the licence is to cease to have effect.
- (3) Subject to any earlier expiry under paragraph 8(1)(a), (b) or (d), the licence ceases to have effect with the expiry of the date stated under sub-paragraph (2).

#### *Right to make representations*

- 15 (1) This paragraph applies if a local authority proposes—

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- (a) to give notice to an applicant under section 65(2) or 66(6) of refusal of an application (including under any of those provisions as applying in respect of the application by virtue of section 67 or paragraph 13(1)(b)),
  - (b) to give notice to a licence holder under section 68 of revocation of a licence (including under that section as applying in respect of the application by virtue of section 67 or paragraph 13(1)(b)), or
  - (c) to give notice to an individual under section 61(1), designating that individual in respect of a special procedure.
- (2) In this paragraph and paragraphs 16 and 17, the applicant or licence holder is referred to as “A”.
- (3) The authority must give A a notice (a “warning notice”) that sets out what the authority proposes to do and why.
- (4) A warning notice must state that, within a period specified in the notice, A may either—
- (a) make representations about the proposal, or
  - (b) inform the authority that A wishes to make representations.
- (5) The period specified in the warning notice must not be less than 14 days beginning with the date of the notice.
- (6) The authority may take the steps specified in the warning notice, if—
- (a) within the period specified in the warning notice, A informs the authority that A does not wish to make representations, or
  - (b) the period specified in the warning notice expires and A has neither made representations nor informed the authority that A wishes to do so.
- (7) If, within the period specified in the warning notice, A informs the authority that A wishes to make representations, the authority—
- (a) must allow A a further reasonable period to make representations, and
  - (b) may take the steps specified in the warning notice, if A fails to make representations within that further period.
- (8) If A makes representations (either within the period specified in the warning notice or within the further period allowed under sub-paragraph (7)(a)), the authority must consider the representations.
- (9) The representations made by A under this paragraph may be made orally or otherwise; and in the case of oral representations, may be made either by A or by A's representative.

#### *Notice of decision*

- 16 (1) This paragraph applies if, having complied with the requirements of paragraph 15 in respect of a proposed notice under section 65(2), 66(6) or 68, a local authority decides to take the action set out in the warning notice.
- (2) The notice given under section 65, 66 or 68 (as the case may be) must set out the authority's reasons for giving it.
- (3) The notice must also state—
- (a) that A may appeal under paragraph 18 against the decision,

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- (b) the period within which an appeal may be brought, and
  - (c) in the case of revocation under section 68, the date on which (in the absence of an appeal under paragraph 18) the revocation is to take effect.
- 17 If, having complied with the requirements of paragraph 15, a local authority decides not to take the action set out in the warning notice, the authority must give notice of the decision to A.

### *Appeals*

- 18 (1) An applicant may appeal to a magistrates' court against—
- (a) the refusal of an application for a special procedure licence;
  - (b) the refusal of an application to vary a special procedure licence;
  - (c) the refusal of an application to renew a special procedure licence.
- (2) A licence holder may appeal to a magistrates' court against a revocation under section 68.
- (3) An individual to whom notice has been given under section 61(1) (designation of a person for the purposes of section 58) may appeal to a magistrates' court against the decision to give the notice.
- (4) An appeal is to be made within the period of 21 days beginning with the date of—
- (a) in the case of an appeal under sub-paragraph (1) or (2), the notice of the decision to refuse the application or of the decision to revoke;
  - (b) in the case of an appeal under sub-paragraph (3), the notice under section 61(1).
- (5) An appeal is to be by way of complaint for an order, and in accordance with the Magistrates' Courts Act 1980 (c.43).
- (6) For the purposes of the time limit for making an appeal, the making of the complaint is to be treated as the making of the appeal.
- (7) On an appeal, the magistrates' court may—
- (a) confirm the decision of the local authority appealed against, or
  - (b) quash or vary the decision appealed against,
- and may make such order as to costs as it thinks fit.
- (8) If the magistrates' court quashes or varies the decision appealed against, it may remit the case to the local authority to dispose of in accordance with directions given by the court.
- 19 (1) An appeal by either party against the decision of a magistrates' court under paragraph 18 may be brought to the Crown Court.
- (2) On an appeal to the Crown Court, the Crown Court may—
- (a) confirm, vary or reverse the magistrates' court's decision;
  - (b) remit the case to the magistrates' court or the local authority to dispose of in accordance with directions given by the Crown Court.
- 20 (1) Where on an appeal under paragraph 18 or 19 a court varies or reverses a local authority's decision, the court may order the local authority to compensate the applicant, licence holder, or person within paragraph 18(3) (as the case may be) for loss suffered as the result of the decision.

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- (2) The bringing of an appeal under paragraph 18 or 19 in respect of a decision made by a local authority or notice given by a local authority does not suspend the effect of the decision or notice.

#### *Delegation of functions*

- 21 (1) The functions of a local authority under the following provisions of this Part are by virtue of this sub-paragraph delegated to the licensing committee of the authority established under section 6 of the Licensing Act 2003 (c.17)—
- (a) section 65(2) and 66(3) (including as applied by virtue of section 67 and paragraph 13(1)), in a case where representations are made under paragraph 15;
  - (b) section 68, in a case where representations are made under paragraph 15;
  - (c) paragraph 15(8);
  - (d) paragraphs 16 and 17.
- (2) The following provisions of the Licensing Act 2003 (c.17) are to apply in relation to a function of an authority delegated to a licensing committee by virtue of sub-paragraph (1) as they apply in relation to a function delegated under that Act, and as if references in them to a licensing authority were to the authority concerned—
- (a) section 7(9) (referral back to authority), and
  - (b) section 10 (sub-delegation).
- (3) In the application of section 10(4) of that Act by virtue of sub-paragraph (2), for the list of functions in that section there is substituted the list of functions at sub-paragraph (1)(a) to (d).
- (4) Regulations may make provision about the procedures applicable to licensing committees and their sub-committees for the purpose of the exercise of functions under or by virtue of this Part, including (among other things) provision as to—
- (a) validity and quorum;
  - (b) public access;
  - (c) publicity;
  - (d) records.
- (5) Subject to any provision made under the regulations, each licensing committee may, for the purposes of the exercise of the functions referred to in sub-paragraph (4), regulate its own procedure and that of its sub-committees.

#### *Consequential amendments*

- 22 (1) The Local Government (Miscellaneous Provisions) Act 1982 (c.30) is amended as follows.
- (2) In section 13(11) (meaning of “local authority” in Part 8), in paragraph (a) after “district” insert “ in England ”.
- (3) In section 14 (acupuncture)—
- (a) in subsection (1) after “any area” insert “ in England ”, and
  - (b) in subsection (2) after “any area” insert “ in England ”.
- (4) In section 15 (tattooing etc)—

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- (a) in subsection (1) after “any area” insert “ in England ”, and
- (b) in subsection (2) after “any area” insert “ in England ”.
- 23 In the Local Government Byelaws (Wales) Act 2012 (anaw 2), in each table in Schedule 1 (byelaw making powers) omit the entry relating to—
- (a) section 14 of the Local Government (Miscellaneous Provisions) Act 1982 (c.30);
- (b) section 15 of the Local Government (Miscellaneous Provisions) Act 1982 (c.30).



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**Changes and effects yet to be applied to :**

- specified provision(s) amendment to earlier commencing S.I. 2017/949, art. 3 by [S.I. 2017/967 art. 2](#)