

## SCHEDULES

### SCHEDULE 1

Article 3

#### LICENSING OF PLACES OF ENTERTAINMENT

##### Licensing of indoor places of entertainment

1.—(1) An entertainment to which this paragraph applies shall not be provided at a place to which this paragraph applies except under and in accordance with the terms of a licence granted under paragraph 3 by the council for the district in which the place is situated.

(2) Subject to sub-paragraph (3), this paragraph applies to the following entertainments, namely—

- (a) a theatrical performance;
- (b) dancing, singing or music or any other entertainment of a like kind;
- (c) a circus;
- (d) any entertainment which consists of, or includes, any public contest, match, exhibition or display of—
  - (i) boxing, wrestling, judo, karate or any similar sport;
  - (ii) billiards, pool, snooker or any similar game;
  - (iii) darts;
  - (iv) any other sport or game prescribed for the purposes of this paragraph by an order made by the Department subject to affirmative resolution.

(3) This paragraph does not apply to—

- (a) any music or singing—
  - (i) in a place used wholly or mainly for public religious worship; or
  - (ii) performed as an incident of a religious meeting or service;
- (b) an entertainment which takes place wholly or mainly in the open air.

(4) Subject to sub-paragraph (5), machines for entertainment or amusement and equipment for the playing of billiards, pool, snooker or other similar games shall not be provided at a place to which this paragraph applies except under and in accordance with the terms of a licence granted under paragraph 3 by the council for the district in which the place is situated.

(5) Sub-paragraph (4) does not apply to—

- (a) machines or equipment provided incidentally to the main purpose or use of any place;
- (b) machines or equipment provided wholly or mainly in the open air;
- (c) gaming machines, that is to say machines which are constructed or adapted for playing games of chance by means of them and have slots or apertures for the insertion of money in the form of cash or tokens.

(6) Subject to sub-paragraph (7), this paragraph applies to—

- (a) any place where, on payment of a charge, persons are admitted for the purpose of entertainment or amusement;

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**Changes to legislation:** There are currently no known outstanding effects for the The Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985. (See end of Document for details)

- (b) any place where, on payment of a charge, meals or refreshments are supplied to the public; and
  - (c) any place where, on payment of a charge, persons may use any machines or equipment referred to in sub-paragraph (4) for the purpose of entertainment or amusement,
- and in this sub-paragraph “charge” includes any form of charge whenever paid and whether paid by money or money's worth.

(7) This paragraph does not apply to the following places, namely—

- (a) any premises licensed under<sup>F1</sup> Article 3 of the Cinemas (Northern Ireland) Order 1991]; or
- (b) an educational institution while being used as such.

(8) In the following provisions of this Schedule references to an entertainment to which this paragraph applies shall include references to any machine or equipment referred to in sub-paragraph (4).

**F1** 1991 NI 12

### Licensing of outdoor musical entertainments

**2.—**(1) An entertainment to which this paragraph applies shall not be provided at any place except under and in accordance with the terms of a licence granted under paragraph 3 by the council for the district in which the place is situated.

(2) This paragraph applies to any public musical entertainment which is held—

- (a) wholly or mainly in the open air; and
- (b) at a place on private land.

(3) For the purposes of this paragraph—

- (a) an entertainment is musical if music or singing is a substantial ingredient; and
- (b) land is private if the public has access to it (whether on payment or otherwise) only by permission of the owner, occupier or lessee.

(4) This paragraph does not apply—

- (a) to a garden fete, bazaar, sale of work, sporting or athletic event, exhibition, display or other function or event of a similar character, whether limited to one day or extending over two or more days; or
- (b) to a religious meeting or service,

merely because music or singing is incidental to it.

(5) This paragraph does not apply to an entertainment held in a pleasure fair.

### Grant, renewal and transfer of entertainments licences

**3.—**(1) The council may grant to any applicant, and from time to time renew, a licence for the use of any place specified in it for all or any of the entertainments to which paragraphs 1 and 2 apply.

(2) Subject to sub-paragraphs (3) to (5), a licence under this paragraph may be granted—

- (a) on such terms and conditions; and
- (b) subject to such restrictions,

as may be specified in it.

(3) In specifying any terms, conditions or restrictions in a licence under this paragraph the council shall have regard to any model terms, conditions and restrictions published for the purposes of this paragraph by the Department.

(4) Without prejudice to the generality of sub-paragraph (2), terms, conditions and restrictions may be specified in a licence for the use of any place for an entertainment to which paragraph 1 applies for all or any of the following purposes, namely—

- (a) regulating the conduct, days and hours of use and general arrangement of the place;
- (b) securing adequate fire precautions;
- (c) securing the provision of facilities for the disabled;
- (d) securing the provision of adequate sanitary appliances and things used in connection with such appliances;
- (e) preventing persons in the neighbourhood being unreasonably disturbed by noise;
- (f) securing that there is in force a policy of insurance insuring the holder of the licence in respect of any liability which may be incurred by him in respect of the death of, or bodily injury to, any person while on or about the premises.

(5) No terms, conditions or restrictions shall be specified in a licence for the use of any place for an entertainment to which paragraph 2 applies unless they are so specified for all or any of the following purposes, namely—

- (a) for securing general safety at the entertainment for which the licence is granted;
- (b) without prejudice to the generality of head (a), for securing adequate access for fire engines, ambulances, police cars or other vehicles that may be required in an emergency;
- (c) for securing the provision and maintenance of adequate sanitary appliances and things used in connection with such appliances;
- (d) for preventing persons in the neighbourhood being unreasonably disturbed by noise;
- (e) for securing the provision and maintenance of receptacles for litter.

(6) Where a licence under this paragraph has been granted to any person, the council may, if it thinks fit, transfer that licence to any other person on the application of that other person or the holder of the licence.

(7) A licence under this paragraph is referred to in the following provisions of this Schedule as “an entertainments licence”.

#### Duration of licences

4.—(1) Subject to sub-paragraphs (3) and (4) and paragraph 13, any entertainments licence other than a licence mentioned in sub-paragraph (2) shall, unless previously cancelled under paragraph 9, revoked under paragraph 10(5) or suspended under paragraph 12(1), remain in force for one year or for such shorter period specified in the licence as the council may think fit.

(2) The council may grant an entertainments licence in respect—

- (a) of not more than fourteen particular days specified in the licence; or
- (b) of any fourteen unspecified days within the period of twelve months next following the grant of the licence.

(3) Where, before the date of expiry of an entertainments 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 council.

(4) Where, before the date of expiry of an entertainments licence, an application has been made for its transfer, it shall be deemed to remain in force with any necessary modifications until the

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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 at the place in respect of which the licence was granted the functions to which it relates.

### Applications for the grant, renewal or transfer of licences

5.—(1) An application for the grant, renewal or transfer of an entertainments licence shall be made in writing to the council and the applicant shall supply the council with three copies of the application.

(2) Every application shall—

- (a) be in such form and contain such particulars as the council may reasonably require;
- (b) be accompanied by three copies of such plans, certificates or other documents as the council may reasonably require; and
- (c) be accompanied by such fee as the Department may from time to time determine.

(3) Subject to sub-paragraph (4), an applicant for the grant, renewal or transfer of an entertainments licence shall, not later than 7 days after the date of the application, give public notice of the application by publishing an advertisement in such newspapers circulating in the district of the council as the council may require.

(4) Sub-paragraph (3) does not apply to an applicant for the grant of an entertainments licence mentioned in paragraph 4(2) in respect of an educational institution or a church hall, chapel hall or other similar building occupied in connection with a place of public religious worship.

(5) Every advertisement published under sub-paragraph (3) shall state—

- (a) that application has been made for the grant, renewal or transfer of an entertainments licence (as the case may be);
- (b) the nature of the entertainment and the address or location of the place in respect of which the application has been made;
- (c) the name and address of the applicant;
- (d) that representations in relation to the application may be made to the council in accordance with sub-paragraph (6);

and the applicant shall supply a copy of every such advertisement to the council.

(6) Any person wishing to make any representation in relation to an application for the grant, renewal or transfer of an entertainments licence shall give notice to the council, stating in general terms the nature of the representation, not later than 28 days after the date of the application.

(7) The council shall, as soon as an application for the grant, renewal or transfer of an entertainments licence is made to it, send a copy of the application to the appropriate sub-divisional commander and to the Fire Authority.

(8) In considering any application for the grant, renewal or transfer of an entertainments licence the council shall—

- (a) have regard to any observations submitted to it by the appropriate sub-divisional commander and the Fire Authority;
- [<sup>F2</sup>(aa) have regard to any conviction of the applicant of an offence under paragraph 10 within the period of 5 years immediately preceding the date when the application was made;]
- (b) give an opportunity of appearing before and of being heard by the council to the applicant;
- (c) have regard to any representation of which notice has been sent to it under sub-paragraph (6); and

- (d) give an opportunity of appearing before and of being heard by the council to any person who has made any such representation.

[<sup>F2</sup>(9) Subject to paragraph 13 and without prejudice to its power to refuse an application on any other grounds, the council may refuse an application for the grant, renewal or transfer of an entertainments licence on the ground that the applicant has been convicted of an offence under paragraph 10 within the period of 5 years immediately preceding the date when the application was made.]

**F2** 1995 NI 5

### Provisional grant of licences

6.—(1) Where application is made to the council for the grant of an entertainments licence in respect of premises which are to be, or are in the course of being, constructed, extended or altered and the council is satisfied that the premises would, if completed in accordance with plans deposited in accordance with the requirements of the council, be such that it would grant the licence, the council may grant the licence subject to a condition that it shall be of no effect until confirmed by the council.

(2) The council shall confirm any licence granted by virtue of sub-paragraph (1) if and when it is satisfied that the premises have been completed in accordance with the plans referred to in that sub-paragraph or in accordance with those plans as modified with the approval of the council, and that the licence is held by a fit and proper person.

### Variation of licences

7.—(1) The holder of an entertainments licence may at any time apply to the council 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) Sub-paragraphs (3) to (8) of paragraph 5 shall, with appropriate modifications, apply to an application under this paragraph as they apply to an application for the grant of an entertainments licence.

(3) The council may—

- (a) make the variation specified in the application;
- (b) make such variations as it thinks fit, including, subject to paragraph 3 (5), the imposition of terms, conditions or restrictions other than those so specified; or
- (c) refuse the application.

[<sup>F3</sup>7A. An applicant for the variation of the terms, conditions or restrictions on or subject to which an entertainments licence is held shall pay such fee as the Department may determine.]

**F3** 1992 NI 6

### Transmission of licences on death of holder

8. In the event of the death of the holder of an entertainments licence, the person carrying on at the place in respect of which the licence was granted the functions to which the licence relates shall, on giving notice of the death to the council, be deemed to be the holder of the licence unless and until—

- (a) a personal representative of the deceased has been duly constituted; or
- (b) the licence is transferred to some other person.

*Status: Point in time view as at 01/01/2006.*

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## Cancellation of licences

9. The council may, at the written request of the holder of an entertainments licence, cancel the licence.

## Enforcement

10.—(1) If—

- (a) any entertainment to which paragraph 1 applies is provided at any place to which that paragraph applies in respect of which an entertainments licence is not in force; or
- (b) any entertainment to which paragraph 2 applies is provided at any place in respect of which an entertainments licence is not in force,

then, subject to sub-paragraph (3)—

- (a) any person concerned in the organisation or management of that entertainment; and
- (b) any other person who, knowing or having reasonable cause to suspect that such an entertainment would be so provided at the place,—
  - (i) allowed the place to be used for the provision of that entertainment; or
  - (ii) let the place, or otherwise made it available, to any person by whom an offence in connection with that use of the place has been committed,

shall be guilty of an offence<sup>F4</sup> . . . .

(2) If any place in respect of which an entertainments licence is in force is used for any entertainment otherwise than in accordance with the terms, conditions or restrictions on or subject to which the licence is held, then, subject to sub-paragraphs (3) and (4)—

- (a) the holder of the licence; and
- (b) any other person who, knowing or having reasonable cause to suspect that the place would be so used,—
  - (i) allowed the place to be so used; or
  - (ii) let the place, or otherwise made it available, to any person by whom an offence in connection with that use of the place has been committed,

shall be guilty of an offence<sup>F4</sup> . . . .

[<sup>F4</sup>(2A) Any person guilty of an offence under sub-paragraph (1) or (2) shall be liable on summary conviction—

- (a) in the case of an offence to which sub-paragraph (2B) applies, to a fine not exceeding £20,000 or to imprisonment for a term not exceeding 6 months or to both;
- (b) in any other case, to a fine not exceeding level 5 on the standard scale.

(2B) This sub-paragraph applies to—

- (a) any offence under sub-paragraph (1) where the entertainment provided is—
  - (i) entertainment referred to in sub-paragraph (2)(b) of paragraph 1 and to which that paragraph applies; or
  - (ii) entertainment to which paragraph 2 applies; and
- (b) any offence under sub-paragraph (2) where the entertainment for which the place is used is—
  - (i) entertainment referred to in sub-paragraph (2)(b) of paragraph 1 and to which that paragraph applies; or
  - (ii) entertainment to which paragraph 2 applies,

and the terms, conditions or restrictions which are contravened or not complied with include one which imposes a limit on the number of persons who may be present at the entertainment.]

(3) It shall be a defence for a person charged with an offence under this paragraph to prove that he took all reasonable precautions and exercised all due diligence to avoid commission of the offence.

(4) Where premises—

(a) are licensed premises under the<sup>F5</sup> Licensing (Northern Ireland) Order 1996] or the premises of a club registered under the<sup>F6</sup> Registration of Clubs (Northern Ireland) Order 1987]; and

(b) form all or part of a place in respect of which an entertainments licence is for the time being in force,

no person shall be guilty of an offence under sub-paragraph (2) by reason only of those premises being kept open for any of the purposes authorised by the entertainments licence after the latest hour so authorised but not later than the hour to which intoxicating liquor is authorised to be sold or supplied on those premises under either of the said Acts.

(5) Subject to paragraph 13, the council by which an entertainments licence was granted may revoke it if its holder is convicted of an offence under sub-paragraph (2)(a).

<b>F4</b>	1995 NI 5
<b>F5</b>	1996 NI 22
<b>F6</b>	1992 NI 6

## Powers of entry

**11.—**(1) Where—

- (a) a constable; or
- (b) an authorised officer of the council; or
- (c) an authorised officer of the Fire Authority,

has reason to believe that an entertainment to which paragraph 1 or 2 applies is being, or is about to be, provided in any place in respect of which an entertainments licence is for the time being in force, he may enter the place with a view to seeing whether the terms, conditions or restrictions on or subject to which the licence is held are complied with.

(2) An authorised officer of the Fire Authority may, on giving not less than 24 hours' notice to the occupier of any place in respect of which an entertainments licence is for the time being in force, enter the place for the purpose of—

- (a) inspecting the place to ensure that there are adequate fire precautions; and
- (b) seeing whether the terms, conditions or restrictions relating to fire precautions on or subject to which the licence is held are being complied with.

(3) A constable or authorised officer of the council may enter any place in respect of which he has reason to suspect that an offence under paragraph 10 is being committed if authorised to do so by a warrant granted by a justice of the peace.

(4) Where an authorised officer of the council or of the Fire Authority enters any place in exercise of any power under this paragraph he shall, if required to do so by the occupier, produce to him his authority.

(5) Any person who without reasonable excuse refuses to permit a constable or officer to enter or inspect any place in accordance with the provisions of this paragraph shall be guilty of an offence

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and shall for every such refusal be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

### Suspension of licences

**12.—**(1) If it appears to the council that the provision of any entertainment at any place in respect of which an entertainments licence is in force is causing or is likely to cause a serious threat to public order or public safety, the council may, subject to paragraph 13, order the suspension of that entertainments licence.

(2) The council may at any time revoke an order under this paragraph.

(3) Before making an order under this paragraph the council shall—

- (a) consult the appropriate sub-divisional commander and, where it appears to the council to be appropriate, the Fire Authority; and
- (b) give an opportunity of appearing before and of being heard by the council to the holder of the entertainments licence and to any persons who have made representations to the council relating to the provision of any entertainment at the place to which the licence relates.

(4) An order under this paragraph suspending a licence shall have effect from the date on which it is made until whichever is the earlier of the following dates—

- (a) the date on which the order is revoked by the council;
- (b) the date of expiry of the entertainments licence to which the order relates,

and the licence shall be of no effect during that period.

### Appeals

**13.—**(1) Any of the following persons, that is to say—

- (a) an applicant for the grant, renewal or transfer of an entertainments licence in respect of any place 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 under paragraph 10(5) or suspended under paragraph 12(1),

may at any time before the expiration of the period of 21 days beginning with the relevant date appeal to the county court for the county court division in which the place is situated.

(2) 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 or suspension of his licence, as the case may be.

(3) On an appeal to the county court under this paragraph the court may make such order as it thinks fit and the decision of the court shall be final.

(4) It shall be the duty of the council to give effect to an order of the county court.

(5) Where any entertainments licence is revoked under paragraph 10(5) or an application for the renewal of such 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 until the licence is renewed by the council.

(6) Where—

- (a) the holder of an entertainments licence makes an application under paragraph 7; and
- (b) the council imposes 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.

(7) 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 the term, condition or restriction until the determination or abandonment of the appeal.

### Notification of police and Fire Authority

**14.—**(1) The council shall send a copy of any entertainments licence granted by it to the appropriate sub-divisional commander and to the Fire Authority.

(2) The council shall notify the appropriate sub-divisional commander and the Fire Authority of the renewal, transfer, variation, cancellation, revocation or suspension of an entertainments licence granted by it.

### Transitional provisions

**15.—**(1) Any licence granted under section 31 of the Local Government Act (Northern Ireland) 1934 or Article 5 of the Theatres (Northern Ireland) Order 1980 and in force immediately before the date on which this Schedule comes into operation—

- (a) shall have effect as from that date as if granted under this Schedule by the council on and subject to terms, conditions and restrictions corresponding to those on and subject to which it was held immediately before that date; and
- (b) shall, if the council gives notice to that effect to the holder, remain in force until such date, not being a date later than six months after the date on which it would otherwise expire, as may be specified in the notice.

(2) Where an appeal under section 31(11) of the Local Government Act (Northern Ireland) 1934 has been brought in respect of a licence before the date on which this Schedule comes into operation but has not been determined or abandoned before that date, the provisions of paragraph 13 shall apply to proceedings relating to the appeal as if the appeal had been brought under that paragraph.

(3) In relation to—

- (a) an entertainment to which paragraph 1 applies but which is not an entertainment to which section 31 of the Local Government Act (Northern Ireland) 1934 or the Theatres (Northern Ireland) Order 1980 applied; and
- (b) an entertainment to which paragraph 2 applies,

paragraph 10(1) shall not apply—

- (i) during the period of two months from the date on which this Schedule comes into operation; and
- (ii) where before the expiry of that period an application is made for an entertainments licence in respect of that entertainment, until the application is granted or refused by the council.

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## Saving for other statutory provisions

**16.** Nothing in this Schedule shall affect—

- (a) paragraph 1 of Schedule 3 to the Revision of the Army and Air Force Acts (Transitional Provisions) Act 1955;
- (b) Article 46 of the Fire Services (Northern Ireland) Order 1984.

### [<sup>F7</sup>Sex discrimination

**F7** 1988 NI 13

**16A.**—(1) [<sup>F8</sup>Without prejudice to the generality of Article 3(1) of the Employment (Miscellaneous Provisions) (Northern Ireland) Order 1990,] nothing in any licence granted under this Schedule (whether before or after the commencement of Article 13 of the Sex Discrimination (Northern Ireland) Order 1988) shall have effect at any time after the said commencement so as to require any person to do any act which,<sup>F8</sup> . . . is rendered unlawful by Part III of the 1976 Order (discrimination in relation to employment) or by so much of Part V of the 1976 Order as relates to acts rendered unlawful by Part III of the 1976 Order.

(2) In this paragraph—

“act” has the same meaning as in the 1976 Order; and

“the 1976 Order” means the Sex Discrimination (Northern Ireland) Order 1976.

**F8** 1990 NI 2

## Interpretation

**17.** In this Schedule—

(a) “the appropriate sub-divisional commander” in relation to an entertainments licence for any place, means the sub-divisional commander of the Royal Ulster Constabulary acting for the police sub-division in which that place is situated;

“educational institution” has the same meaning as in [<sup>F9</sup> Article 26 of the Planning (Northern Ireland) Order 1991];

“an entertainments licence” means a licence granted under paragraph 3;

“the Fire Authority” means the Fire Authority for Northern Ireland;

“pleasure fair” has the same meaning as in Article 67 of the Pollution Control and Local Government (Northern Ireland) Order 1978;

(b) references to an entertainment to which paragraph 1 applies shall be construed in accordance with paragraph 1(8).]

**F9** 1991 NI 11

## SCHEDULE 2

Article 4

### LICENSING OF SEX ESTABLISHMENTS

#### 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 a statutory provision 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 the Obscene Publications Act 1857 or Article 5 of the Protection of Children (Northern Ireland) Order 1978; or
    - (iii) in proceedings for condemnation under Schedule 3 to the Customs and Exercise 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 statutory provisions.

#### Meaning of “sex establishment”

2. In this Schedule “sex establishment” means a sex cinema or a sex shop.

#### 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.

[<sup>F10</sup>(2) No premises shall be treated as a sex cinema by reason only—

- (a) if they are licensed under Article 3 of the Cinemas (Northern Ireland) Order 1991, of their use for a purpose for which a licence under that Article is required; or
- (b) of their use for an exhibition to which Article 8 of that Order (certain non-commercial exhibitions) applies given by an exempted organisation within the meaning of Article 8(6) of that Order.]

**F10** 1991 NI 12

#### 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

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- (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) 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 sub-divisional commander” in relation to an application or a licence under this Schedule means—

- (a) where the application or licence relates to premises, the sub-divisional commander of the Royal Ulster Constabulary acting for the police sub-division in which the premises are situated;
- (b) where the application or licence relates to a vehicle, vessel or stall, the sub-divisional commander of the Royal Ulster Constabulary acting for the police sub-division in which the applicant or holder has his permanent address or (in the case of a body corporate or unincorporated body) its registered or principal office;

“statutory provision” has the meaning assigned to it by section 1(f) of the Interpretation Act (Northern Ireland) 1954;

“vessel” includes a hovercraft and any ship, boat, raft or other apparatus constructed or adapted for floating on water.

### Requirement for licences for sex establishments

- 6.—(1) Subject to the provisions of this Schedule, no person shall in any district 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 council for the district.

(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;
- (b) primarily relate to birth control.

#### Waiver of requirement for licence

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 council for it 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) and such particulars as the council may reasonably require in addition.

(4) The council may waive the requirement of a licence in any case where it considers that to require a licence would be unreasonable or inappropriate.

(5) A waiver may be for such period as the council thinks fit.

(6) Where the council grants an application for a waiver, it shall give the applicant for the waiver notice that it has granted his application.

(7) The council 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 it gives the notice as may be specified in the notice.

#### Grant, renewal and transfer of licences for sex establishments

8.—(1) Subject to paragraph 12(1), the council 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) Where a licence under this Schedule has been granted to any person, the council may, if it thinks fit, transfer that licence to any other person on the application of that other person.

#### Duration of licences

9. Subject to paragraphs 11 and 26, any licence under this Schedule shall, unless previously cancelled under paragraph 16 or revoked under paragraph 17(1), remain in force for one year or for such shorter period specified in the licence as the council may think fit.

#### Applications for licences

10.—(1) An application for the grant, renewal or transfer of a licence under this Schedule shall be made in writing to the council and the applicant shall supply the council with two copies of the application.

(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

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- (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 council may reasonably require in addition to any particulars required under sub-paragraphs (2) to (5).
- (7) An applicant for the grant, renewal or transfer of a licence under this Schedule shall give public notice of the application by publishing an advertisement in such newspapers circulating in the district of the council as the council may require.
- (8) The applicant shall supply a copy of every advertisement published under sub-paragraph (7) to the council.
- (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), a notice under this paragraph shall be in such form as the council may prescribe.
- (14) The council shall, as soon as an application for the grant, renewal or transfer of a licence under this Schedule is made to it, send a copy of the application to the appropriate sub-divisional commander.
- (15) Any person wishing to make any representation in relation to an application for the grant, renewal or transfer of a licence under this Schedule shall give notice to the council, stating in general terms the nature of the representation not later than 28 days after the date of the application.
- (16) Where the council receives notice of any representation under sub-paragraph (15), the council shall, before considering the application, give notice of the general terms of the representation to the applicant.
- (17) The council shall not without the consent of the person making the representation reveal his name or address to the applicant.
- (18) In considering any application for the grant, renewal or transfer of a licence the council shall have regard to any observations submitted to it by the appropriate sub-divisional commander and to any representation of which notice has been sent to it under sub-paragraph (15).
- (19) The council shall give an opportunity of appearing before and of being heard by the council—
  - (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 council refuses to grant, renew or transfer a licence, it shall, if required to do so by the applicant or holder of the licence, give him a statement in writing of the reasons for its decision within 7 days of his requiring it to do so.

**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 council.

(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) Subject to paragraph 26, the council shall refuse an application for the grant, renewal or transfer of a licence under this Schedule where the applicant is—

- (a) a person under the age of 18; or
- (b) a person who is for the time being disqualified under paragraph 17(3); or
- (c) a person, other than a body corporate, who is not resident in the United Kingdom or was not so resident throughout the period of six months immediately preceding the date when the application was made; or
- (d) a body corporate which is not incorporated in the United Kingdom; or
- (e) 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 26, the council 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);
- (b) an application for the transfer of a licence on either or both of the grounds specified in heads (a) and (b) of that sub-paragraph.

(3) The grounds mentioned in sub-paragraph (2) 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 as licence if he made the application himself;
- (c) that the number of sex establishments in the relevant locality at the time the application is made is equal to or exceeds the number which the council considers 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.

**Status:** Point in time view as at 01/01/2006.

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- (4) Nil may be an appropriate number for the purposes of sub-paragraph (3)(c).
- (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 council 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 it.

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

- (a) the days and 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 of a sex cinema to a sex shop or a sex shop to a sex cinema.

(3) Where the council has made regulations under sub-paragraph (1), every such licence granted, renewed or transferred by it 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.

(4) Where the council has made regulations under sub-paragraph (1), it shall, if so requested by any person, supply him with a copy of the regulations on payment of such reasonable fee as the council may determine.

(5) In any legal proceedings the production of a copy of any regulations made by the council under sub-paragraph (1) purporting to be certified as a true copy by an officer of the council 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.** 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) which prescribe standard conditions subject to which the licence is held.

#### Transmission of licences on death of holder

**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 council may from time to time, on the application of those representatives, extend or further extend the period of 3 months if the council is satisfied that the extension is necessary for the purpose of winding up the deceased's estate and that no other circumstances make it undesirable.

#### Cancellation of licences

**16.** The council may, at the written request of the holder of a licence, cancel the licence.



## Revocation of licences

**17.**—(1) The council may, after giving the holder of a licence under this Schedule an opportunity of appearing before and being heard by it, at any time revoke the licence—

- (a) on any ground specified in sub-paragraph (1) of paragraph 12; 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 council shall, if required to do so by the person who held it, give him a statement in writing of the reasons for its decision within 7 days of his requiring it to do so.

(3) Where a licence is revoked, its holder shall be disqualified from holding or obtaining a licence in the district of the council 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 council 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) The council may—

- (a) make the variation specified in the application; or
- (b) make such variations as it thinks fit including the imposition of terms, conditions or restrictions other than those specified in the application; or
- (c) refuse the application.

## Fees

**19.** An applicant for the grant, renewal or transfer of a licence under this Schedule shall pay a reasonable fee determined by the council.

## Enforcement

**20.** A person who—

- (a) knowingly uses, or knowingly causes or permits the use of, any premises, vehicle, vessel or stall contrary to paragraph 6; 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 shall be liable on summary conviction to a fine not exceeding £20,000.

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(2) A person who, being the holder of a licence under this Schedule, fails without reasonable excuse to comply with paragraph 14 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 council officers

*Para. 24 rep. by 1989 NI 12*

**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), a constable may enter and inspect a sex establishment if he has reason to suspect that an offence under paragraph 20, 21 or 23 has been, is being, or is about to be committed in relation to it.

(3) An authorised officer of a council may exercise the powers conferred by sub-paragraphs (1) and (2) in relation to a sex establishment in the council's district.

(4) No power conferred by sub-paragraph (2) may be exercised by a constable or an authorised officer of a council 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 council 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 council 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.

### Appeals

**26.**—(1) Subject to sub-paragraphs (2) and (3), 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 the county court for the relevant county court division.

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

(4) In this paragraph—

“the relevant county court division” means—

- (a) in relation to premises, the county court division in which they are situated; and
- (b) in relation to a vehicle, vessel or stall, the county court division in which it is used or, as the case may be, desired to be used as a sex establishment; and

“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) On an appeal to the county court under this paragraph the court may make such order as it thinks fit and the decision of the court shall be final.

(6) It shall be the duty of the council to give effect to an order of the county court.

(7) 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 until the licence is renewed by the council.

(8) Where—

- (a) the holder of a licence makes an application under paragraph 18; and
- (b) the council imposes 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.

(9) 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.

### Notification of police and Fire Authority

**27.—**(1) The council shall send a copy of any licence granted by it under this Schedule to the appropriate sub-divisional commander.

(2) The council shall notify the appropriate sub-divisional commander of the renewal, transfer, cancellation, revocation or variation of any licence under this Schedule granted by it.

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## Provisions relating to existing premises

**28.—**(1) Without prejudice to any other statutory provision 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 paragraph (2) of Article 4 of a notice of the passing of a resolution under that Article by the council for the district; and

(b) had before the appointed day duly applied to the council 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 “the appointed day”, in relation to any district, means the day specified in the resolution passed under Article 4 as the date upon which this Schedule is to come into force in that district.

**29.—**(1) This paragraph applies to an application for the grant of a licence under this Schedule made before the appointed day.

(2) A council shall not consider any application to which this paragraph applies before the appointed day.

(3) A council shall not grant any application to which this paragraph applies until it has considered all such applications.

(4) In considering which of several applications to which this paragraph applies should be granted a council 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 1st August 1984; 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.

*Schedule 3—Amendments*

*Schedule 4—Amendments*

*Schedule 5—Repeals*

**Status:**

Point in time view as at 01/01/2006.

**Changes to legislation:**

There are currently no known outstanding effects for the The Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985.