

# LICENSING ACT 2003

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### PART 4: Clubs

##### *Section 84 – Application to vary club premises certificate*

##### *Section 85 – Determination of application under section 84 and*

##### *Section 86 – Supplementary provision about applications under section 84*

147. Under these sections a club can apply, in the prescribed form and manner, to vary its club premises certificate in any way other than to vary substantially the premises to which it relates. Any such application may be subject to the payment of a fee and is subject to regulations under section 71 relating to advertising requirements. The application must also be accompanied by the club premises certificate (unless that is impracticable, in which case a statement of reasons must be provided).
148. Under section 85 the licensing authority must make the variation as applied for unless relevant representations are made, in which case a hearing must be held. In order for representations to be ‘relevant’ they must have been made by an interested party or a responsible authority (see the definitions in section 69) and they must relate to the likely effect on the promotion of the licensing objectives if the application were to be granted. If the representations are made by an interested party there is a further requirement that the licensing authority does not consider them to be frivolous or vexatious (but if it does the authority is to explain its decision to the person who made the representations). The need for a hearing can be dispensed with by agreement of the authority, the applicant for the variation and all of the parties who have made relevant representations.
149. By virtue of subsection (3) of section 85, in any case where relevant representations have been made, the licensing authority must, if it considers it necessary for the promotion of the licensing objectives (see section 4), modify the conditions of the certificate or reject the application for variation. Otherwise, the licensing authority must grant the variation in the terms sought (subject to the mandatory conditions). The authority must notify its decision to the applicant, the police and any person who has made relevant representations, and must give reasons for its decision. A variation of a club premises certificate may impose different conditions on different parts of the premises, or impose different conditions in relation to different qualifying club activities.