

SCHEDULES

SCHEDULE 1

Section 1.

LICENSING OF PUBLIC ENTERTAINMENTS

Grant, renewal and transfer of entertainments licences

- 1 (1) An entertainment to which this paragraph applies shall not be provided in any place except under and in accordance with the terms of a licence granted under this paragraph by the appropriate authority.
- (2) Subject to sub-paragraph (3) below, this paragraph applies to public dancing or music or any other public entertainment of a like kind.
- (3) This paragraph does not apply—
- (a) to any music—
 - (i) in a place of public religious worship ; or
 - (ii) performed as an incident of a religious meeting or service;
 - (b) to an entertainment held in a pleasure fair ; or
 - (c) to an entertainment which takes place wholly or mainly in the open air.
- (4) The appropriate authority 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 this paragraph applies on such terms and conditions and subject to such restrictions as may be so specified.
- (5) The appropriate authority may grant a licence under this paragraph in respect of such one or more particular occasions only as may be specified in the licence.
- 2 (1) An entertainment to which this paragraph applies shall not be provided in any place except under and in accordance with the terms of a licence granted under this paragraph by the appropriate authority.
- (2) Subject to sub-paragraph (3) below, this paragraph applies to any entertainment which consists of, or includes, any public contest, exhibition or display of boxing, wrestling, judo, karate or any similar sport.
- (3) This paragraph does not apply—
- (a) to an entertainment held in a pleasure fair; or
 - (b) to an entertainment which takes place wholly or mainly in the open air.
- (4) The appropriate authority 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 this paragraph applies on such terms and conditions and subject to such restrictions as may be so specified.
- (5) The appropriate authority may grant a licence under this paragraph in respect of such one or more particular occasions only as may be specified in the licence.

Status: This is the original version (as it was originally enacted).

- 3 (1) This paragraph applies to any public musical entertainment which is held—
- (a) in an area in which this paragraph and paragraph 4 below have effect; and
 - (b) wholly or mainly in the open air ; and
 - (c) at a place on private land.
- (2) For the purposes of this paragraph and paragraph 4 below—
- (a) an entertainment is musical if music 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.
- (3) 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 is incidental to it.
- (4) This paragraph does not apply to an entertainment held in a pleasure fair.
- 4 (1) An entertainment to which paragraph 3 above applies shall not be provided except under and in accordance with the terms of a licence granted under this paragraph by the appropriate authority.
- (2) The appropriate authority may grant to any applicant, and from time to time renew, a licence for the use of any place specified in it for any entertainment to which paragraph 3 above applies.
- (3) The appropriate authority may grant a licence under this paragraph in respect of such one or more particular occasions only as may be specified in the licence.
- (4) A licence under this paragraph may be granted—
- (a) on terms and conditions ; and
 - (b) subject to restrictions,
imposed for all or any of the following purposes, but no others.—
- (i) for securing the safety of performers at the entertainment for which the licence is granted and other persons present at the entertainment;
 - (ii) without prejudice to the generality of paragraph (i) above, for securing adequate access for fire engines, ambulances, police cars or other vehicles that may be required in an emergency ;
 - (iii) for securing the provision of adequate sanitary appliances and things used in connection with such appliances ;
 - (iv) for preventing persons in the neighbourhood being unreasonably disturbed by noise.
- 5 (1) Subject to paragraphs 8 and 17 below, any entertainments licence other than a licence in respect of one or more particular occasions only shall, unless previously cancelled under paragraph 10 or revoked under paragraph 12(4) 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 an entertainments licence 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 or the holder of the licence.

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- 6 (1) An applicant for the grant, renewal or transfer of an entertainments licence in respect of any place shall give not less than 28 days' notice of his intention to make the application to—
- (a) the appropriate authority ;
 - (b) the chief officer of police ; and
 - (c) the fire authority.
- (2) The appropriate authority may in such cases as they think fit, after consulting with the chief officer of police and the fire authority, grant an application for the grant, renewal or transfer of an entertainments licence notwithstanding the fact that the applicant has failed to give notice in accordance with sub-paragraph (1) above.
- (3) An applicant for the grant, renewal or transfer of an entertainments licence shall furnish such particulars and give such other notices as the appropriate authority may by regulation prescribe.
- (4) In considering any application for the grant, renewal or transfer of an entertainments licence, the appropriate authority shall have regard to any observations submitted to them by the chief officer of police and by the fire authority.
- 7 (1) Subject to sub-paragraphs (2) and (3) below, an applicant for the grant, renewal or transfer of an entertainments licence shall pay a reasonable fee determined by the appropriate authority.
- (2) No fee shall be payable if the application is for a licence for an entertainment—
- (a) at a church hall, chapel hall or other similar building occupied in connection with a place of public religious worship; or
 - (b) at a village hall, parish or community hall or other similar building.
- (3) The appropriate authority may remit the whole or any part of the fee that would otherwise be payable for the grant, renewal or transfer of an entertainments licence, where in the opinion of the authority the entertainment in question—
- (a) is of an educational or other like character; or
 - (b) is given for a charitable or other like purpose.
- 8 (1) 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 appropriate authority.
- (2) 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 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.

Transmission and cancellation of entertainments licences

- 9 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 be deemed to be the holder of the licence unless and until—
- (a) a legal personal representative of the deceased has been duly constituted ; or

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(b) the licence is transferred to some other person.

- 10 The appropriate authority may, at the written request of the holder of an entertainments licence, cancel the licence.

Power to prescribe standard terms, conditions and restrictions

- 11 (1) The appropriate authority may make regulations prescribing standard conditions applicable to all, or any class of, entertainments licences, that is to say terms, conditions and restrictions on or subject to which such licences, or licences of that class, are in general to be granted, renewed or transferred by them.
- (2) Regulations relating to entertainments to which paragraph 3 above applies may only prescribe standard conditions for the purposes specified in paragraph 4(4) above.
- (3) 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.
- (4) 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.
- (5) 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 a certificate.

Enforcement

- 12 (1) If any entertainment to which paragraph 1, 2 or 3 above applies is provided at any place in respect of which a licence under the relevant paragraph is not in force, then, subject to sub-paragraph (3) below—
- (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 and liable on summary conviction to a fine not exceeding £1,000.
- (2) If any place in respect of which a licence under paragraph 1, 2 or 4 above 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-paragraph (3) and to paragraph 13 below.—
- (a) the holder of the licence ; and

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(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 and liable on summary conviction to a fine not exceeding £1,000.

(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) Subject to paragraph 17 below, the authority by whom an entertainments licence was granted may revoke it if its holder is convicted of an offence under sub-paragraph (2) (a) above.

13 Where—

(a) a special order of exemption has been granted in respect of premises under section 74(4) of the Licensing Act 1964 ; and

(b) the premises form all or part of a place in respect of which a licence under paragraph 1 above is for the time being in force,

no person shall be guilty of an offence under paragraph 12(2) above by reason only of those premises being kept open on that special occasion for any of the purposes authorised by the licence after the latest hour so authorised but not later than the hour specified in that special order of exemption as the hour for closing.

14 (1) Where—

(a) a constable ; or

(b) an authorised officer of the appropriate authority; or

(c) an authorised officer of the fire authority,

has reason to believe that an entertainment to which paragraph 1, 2 or 3 above applies is being, or is about to be, given 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 appropriate authority may enter any place in respect of which he has reason to suspect that an offence under paragraph 12 above 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 appropriate authority 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.

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- (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 and shall for every such refusal be liable on summary conviction to a fine not exceeding £200.

Provisional grant of licences

- 15 (1) Where application is made to the appropriate authority 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 authority are satisfied that the premises would, if completed in accordance with plans deposited in accordance with the requirements of the authority, be such that they would grant the licence, the authority may grant the licence subject to a condition that it shall be of no effect until confirmed by them.
- (2) The authority shall confirm any licence granted by virtue of the foregoing sub-paragraph if and when they are satisfied that the premises have been completed in accordance with the plans referred to in sub-paragraph (1) above or in accordance with those plans as modified with the approval of the authority, and that the licence is held by a fit and proper person.

Variation of licences

- 16 (1) The holder of an entertainments licence may at any time apply to the appropriate authority for such variations of the terms, conditions or restrictions on or subject to which the licence is held as may be specified in the application.
- (2) An authority to whom an application under sub-paragraph (1) above is made may—
- (a) make the variations specified in the application ;
 - (b) make such variations as they think fit, including, subject to paragraph 4(4) above, the imposition of terms, conditions or restrictions other than those so specified ; or
 - (c) refuse the application.

Appeals

- 17 (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 12(4) above,
- may at any time before the expiration of the period of 21 days beginning with the relevant date appeal to the magistrates' court acting for the petty sessions area 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

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restriction by which he is aggrieved or the revocation of his licence, as the case may be.

- (3) An appeal against the decision of a magistrates' court under this paragraph may be brought to the Crown Court.
- (4) On an appeal to the magistrates' court or the Crown Court under this paragraph the court may make such order as it thinks fit.
- (5) Subject to sub-paragraphs (6) to (9) below, it shall be the duty of the appropriate authority to give effect to an order of the magistrates' court or the Crown Court.
- (6) The appropriate authority need not give effect to the order of the magistrates' court until the time for bringing an appeal under sub-paragraph (3) above has expired and, if such an appeal is duly brought, until the determination or abandonment of the appeal.
- (7) Where any entertainments licence is revoked under paragraph 12(4) above 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 and no further appeal is available, until the licence is renewed by the appropriate authority.
- (8) Where—
 - (a) the holder of an entertainments licence makes an application under paragraph 16 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.
- (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 the term, condition or restriction until the determination or abandonment of the appeal.

Miscellaneous

- 18 Where a place in respect of which an entertainments licence has been granted constitutes a roller skating rink within the meaning of section 75(2)(b) of the Public Health Act 1961, it shall not be subject to any byelaws made under section 75 for so long as the licence is in force.

Savings and transitional provisions

- 19 (1) Any licence relating to public entertainments which was granted under an enactment repealed by this Act and which is in force immediately before the commencement date—
 - (a) shall have effect as from the commencement date as if granted under this Act by the appropriate authority on and subject to terms, conditions

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and restrictions corresponding to those on and subject to which it is held immediately before the commencement date ; and

- (b) in the case of a licence granted or renewed for a specified period, shall remain in force, subject to paragraphs 10, 12(4) and 16(2) of this Schedule, for so much of that period as falls on or after the commencement date.

- (2) Where an appeal under any enactment mentioned in sub-paragraph (1) above has been brought in respect of a licence before the commencement date but has not been determined or abandoned before that date, the provisions of paragraph 17 above shall apply to proceedings relating to the appeal as if the appeal had been brought under that paragraph.

- 20 (1) Nothing in this Schedule shall affect—

- (a) the application of the Private Places of Entertainment (Licensing) Act 1967 to any area in respect of which an adoption has been made under section 1 of that Act; or
- (b) the validity of any licence granted under that Act before the commencement date.

- (2) Where by virtue of such an adoption made before the commencement date the Private Places of Entertainment (Licensing) Act 1967 applies to part only of a district, the district council may adopt that Act in respect of the remaining part of that district.

- 21 Nothing in this Schedule shall affect—

- (a) section 3 of the Sunday Entertainments Act 1932 ;
- (b) section 7 of the Cinematograph Act 1952 ;
- (c) paragraph 1 of Schedule 3 to the Revision of the Army and Air Force Acts (Transitional Provisions) Act 1955 ;
- (d) section 182(1) of the Licensing Act 1964 ;
- (e) section 12 of the Theatres Act 1968 ; or
- (f) section 31 of the Fire Precautions Act 1971.

Supplemental

- 22 In this Schedule—

" the appropriate authority " means—

- (i) in relation to any place in England and Wales, the district council for the area in which the place is situated ; or
- (ii) in relation to any place situated in the Isles of Stilly, the Council of the Isles of Stilly ;

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

" the commencement date " means 1st January 1983 ;

" an entertainments licence " means a licence granted under this Schedule ;

" fire authority ", in relation to any place, means the authority discharging in the area in which the place is situated the functions of fire authority under the Fire Services Act 1947;

"place of public religious worship" means a place of public religious worship which belongs to the Church of England or to the Church in Wales (within the meaning of the Welsh Church Act 1914), or which is for the time being certified as required by law as a place of religious worship ;

" pleasure fair" has the meaning assigned to it by section 75(2)(a) of the Public Health Act 1961.

SCHEDULE 2

Section 1.

AMENDMENTS CONSEQUENTIAL ON SECTION 1

Hypnotism Act 1952 (c. 46)

1 For section 2(4) of the Hypnotism Act 1952 (control of demonstrations of hypnotism at places not licensed for public entertainment) there shall be substituted the following subsection—

“(4) In this section, the expression " controlling authority" in relation to a place in any area means the authority having power to grant licences of the kind mentioned in section 1 above in that area.”.

Private Places of Entertainment (Licensing) Act 1967 (c. 19)

2 In section 1(1) of the Private Places of Entertainment (Licensing) Act 1967 (power to adopt that Act in certain areas) for the words from " in which any " to the end there shall be substituted the words " specified in the first column of Part I of the Schedule to this Act. ".

3 In section 2 of that Act (certain private places of entertainment to require licences)

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- (a) in subsection (1)(a) for the words from " public " to " area " there shall be substituted the words " a public entertainment "; and
 - (b) in subsection (2)(a) for the words " any enactment mentioned in section 1(1) of this Act" there shall be substituted the words " paragraph 1 of Schedule 12 to the London Government Act 1963 (which provides for the licensing of premises used for public music or dancing in London) or paragraph 1 or 4 of Schedule 1 to the Local Government (Miscellaneous Provisions) Act 1982 (which taken together make similar provision for other areas in England and Wales) ".

4 For Part I of the Schedule to that Act there shall be substituted the following—

“PART I

ADOPTING AND LICENSING AUTHORITIES

Area	Authority which may adopt this Act	Licensing authority
A district.	The council of the district.	The council of the district.
A London borough.	The Greater London Council acting with the	The Greater London Council.

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Area	Authority which may adopt this Act	Licensing authority
The City of London.	consent of the council of the borough. The Greater London Council acting with the consent of the Common Council.	The Greater London Council.
The Isles of Scilly.	The Council of the Isles of Scilly.	The Council of the Isles of Scilly ".

Licensing Act 1964 (c. 26)

- 5 In section 79(1) of the Licensing Act 1964 (licensing authority's certificate of suitability of club premises for music and dancing) for the words from " and which are " to " those regulations " there shall be substituted the words " , the licensing authority under the statutory regulations for music and dancing ".
- 6 In section 201(1) of that Act for the words after the word " means " in the definition of " statutory regulations for music and dancing " there shall be substituted—
- “(i) Schedule 12 to the London Government Act 1963 ; or
(ii) Schedule 1 to the Local Government (Miscellaneous Provisions) Act 1982 ;”.

SCHEDULE 3

Section 2.

CONTROL 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 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 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 "t

- 2 In this Schedule " sex establishment " means a sex cinema or a sex shop.

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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 are licensed under the Cinematograph Act 1909, of their use for a purpose for which a licence under that Act is required; or
 - (b) of their use for an exempted exhibition as defined in section 5 of the Cinematograph Act 1952 (which relates to exemptions from the requirements of that Act for non-commercial organisations) by an exempted organisation within the meaning of section 5(4) of that Act.

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—

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- (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.

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Grant, renewal and transfer of licences for sex establishments

- 8 Subject to 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.
- 9 (1) Subject to paragraphs 11 and 27 below, any licence under this Schedule shall, unless previously cancelled under paragraph 16 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.

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- (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) An applicant for the grant, renewal or transfer of a licence under this Schedule shall, not later than 7 days after the date of the application, send a copy of the application to the chief officer of police.
- (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, if required to do so by the applicant or holder of the licence, give him a statement in writing of the reasons for their decision within 7 days of his requiring them 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 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

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- (c) to 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) to a body corporate which is not incorporated in the United Kingdom ; 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 in the relevant locality at the time the application is made 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.
- (2) Regulations under sub-paragraph (1) above may make different provision—
- (a) for sex cinemas and sex shops ; and
 - (b) for different kinds of sex cinemas and sex shops.

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- (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 of a sex cinema to a sex shop or a sex shop to a sex cinema.
- (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—

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- (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) 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.

Fees

- 19 An applicant for the grant, 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

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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 £10,000.
- (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 £200.

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 £10,000.

Powers of constables and local authority officers

- 24 If a constable has reasonable cause to suspect that a person has committed an offence under paragraph 20 or 23 above, he may require him to give his name and address, and if that person refuses or fails to do so, or gives a name or address which the constable reasonably suspects to be false, the constable may arrest him without warrant.
- 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.

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- (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 £1,000.

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 the magistrates' court acting for the relevant area.
- (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 area " means—
 - (a) in relation to premises, the petty sessions area in which they are situated ; and
 - (b) in relation to a vehicle, vessel or stall, the petty sessions area in which it is used or, as the case may be, desired to be used as a sex establishment; and

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" 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: and accordingly in section 28(2)(b) of the Supreme Court Act 1981 for the words " or the Gaming Act 1968 " there shall be substituted the words " , the Gaming Act 1968 or the Local Government (Miscellaneous Provisions) Act 1982 ".
- (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.
- (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.

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,

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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, and accordingly, until the day so appointed, this Schedule shall have effect—
- (a) with the omission—
 - (i) of paragraph 3 above ; and
 - (ii) of paragraph 13(3)(d) above ;
 - (b) as if any reference to a sex establishment were a reference only to a sex shop ; and
 - (c) as if for paragraphs (a) and (b) of paragraph 13(2) above there were substituted the words " for different kinds of sex shops ".
- (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.

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SCHEDULE 4

Section 3.

STREET TRADING

Interpretation

1 (1) In this Schedule—

" consent street" means a street in which street trading is prohibited without the consent of the district council;

" licence street" means a street in which street trading is prohibited without a licence granted by the district council;

" principal terms ", in relation to a street trading licence, has the meaning assigned to it by paragraph 4(3) below ;

" prohibited street" means a street in which street trading is prohibited ;

" street " includes—

(a) any road, footway, beach or other area to which the public have access without payment; and

(b) a service area as denned in section 329 of the Highways Act 1980, and also includes any part of a street;

" street trading" means, subject to sub-paragraph (2) below, the selling or exposing or offering for sale of any article (including a living thing) in a street; and

" subsidiary terms", in relation to a street trading licence, has the meaning assigned to it by paragraph 4(4) below.

(2) The following are not street trading for the purposes of this Schedule—

(a) trading by a person acting as a pedlar under the authority of a pedlar's certificate granted under the Pedlars Act 1871 ;

(b) anything done in a market or fair the right to hold which was acquired by virtue of a grant (including a presumed grant) or acquired or established by virtue of an enactment or order.

(c) trading in a trunk road picnic area provided by the Secretary of State under section 112 of the Highways Act 1980 ;

(d) trading as a news vendor;

(e) trading which—

(i) is carried on at premises used as a petrol filling station ; or

(ii) is carried on at premises used as a shop or in a street adjoining premises so used and as part of the business of the shop ;

(f) selling things, or offering or exposing them for sale, as a roundsman;

(g) the use for trading under Part VILA of the Highways Act 1980 of an object or structure placed on, in or over a highway ;

(h) the operation of facilities for recreation or refreshment under Part VILA of the Highways Act 1980 ;

(j) the doing of anything authorised by regulations made under section 5 of the Police, Factories, etc. (Miscellaneous Provisions) Act 1916.

(3) The reference to trading as a news vendor in sub-paragraph (2)(d) above is a reference to trading where—

(a) the only articles sold or exposed or offered for sale are newspapers or periodicals ; and

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- (b) they are sold or exposed or offered for sale without a stall or receptacle for them or with a stall or receptacle for them which does not—
 - (i) exceed one metre in length or width or two metres in height;
 - (ii) occupy a ground area exceeding 0.25 square metres ; or
 - (iii) stand on the carriageway of a street.

Designation of streets

- 2 (1) A district council may by resolution designate any street in their district as—
- (a) a prohibited street;
 - (b) a licence street; or
 - (c) a consent street.
- (2) If a district council pass such a resolution as is mentioned in sub-paragraph (1) above, the designation of the street shall take effect on the day specified in that behalf in the resolution (which must not be before the expiration of the period of one month beginning with the day on which the resolution is passed).
- (3) A council shall not pass such a resolution unless—
- (a) they have published notice of their intention to pass such a resolution in a local newspaper circulating in their area ;
 - (b) they have served a copy of the notice—
 - (i) on the chief officer of police for the area in which the street to be designated by the resolution is situated; and
 - (ii) on any highway authority responsible for that street; and
 - (c) where sub-paragraph (4) below applies, they have obtained the necessary consent.
- (4) This sub-paragraph applies—
- (a) where the resolution relates to a street which is owned or maintainable by a relevant corporation ; and
 - (b) where the resolution designates as a licence street any street maintained by a highway authority ;
- and in sub-paragraph (3) above " necessary consent" means—
- (i) in the case mentioned in paragraph (a) above, the consent of the relevant corporation ; and
 - (ii) in the case mentioned in paragraph (b) above, the consent of the highway authority.
- (5) The following are relevant corporations for the purposes of this paragraph—
- (a) the British Railways Board ;
 - (b) the Commission for the New Towns ;
 - (c) a development corporation for a new town ;
 - (d) an urban development corporation established under the Local Government, Planning and Land Act 1980 ; and
 - (e) the Development Board for Rural Wales.
- (6) The notice referred to in sub-paragraph (3) above—
- (a) shall contain a draft of the resolution ; and

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- (b) shall state that representations relating to it may be made in writing to the council within such period, not less than 28 days after publication of the notice, as may be specified in the notice.
- (7) As soon as practicable after the expiry of the period specified under sub-paragraph (6) above, the council shall consider any representations relating to the proposed resolution which they have received before the expiry of that period.
- (8) After the council have considered those representations, they may, if they think fit, pass such a resolution relating to the street as is mentioned in sub-paragraph (1) above.
- (9) The council shall publish notice that they have passed such a resolution in two consecutive weeks in a local newspaper circulating in their area.
- (10) The first publication shall not be later than 28 days before the day specified in the resolution for the coming into force of the designation.
- (11) Where a street is designated as a licence street, the council may resolve—
 - (a) in the resolution which so designates the street; or
 - (b) subject to sub-paragraph (12) below, by a separate resolution at any time, that a street trading licence is not to be granted to any person who proposes to trade in the street for a number of days in every week less than a number specified in the resolution.
- (12) Sub-paragraphs (3)(a) and (6) to (10) above shall apply in relation to a resolution under sub-paragraph (11)(c) above as they apply in relation to a resolution under sub-paragraph (1) above.
- (13) Any resolution passed under this paragraph may be varied or rescinded by a subsequent resolution so passed.

Street trading licences

- 3 (1) An application for a street trading licence or the renewal of such a licence shall be made in writing to the district council.
- (2) The applicant shall state—
 - (a) his full name and address ;
 - (b) the street in which, days on which and times between which he desires to trade ;
 - (c) the description of articles in which he desires to trade and the description of any stall or container which he desires to use in connection with his trade in those articles ; and
 - (d) such other particulars as the council may reasonably require.
- (3) If the council so require, the applicant shall submit two photographs of himself with his application.
- (4) A street trading licence shall not be granted—
 - (a) to a person under the age of 17 years ; or
 - (b) for any trading in a highway in relation to which a control order under section 7 of the Local Government (Miscellaneous Provisions) Act 1976

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(road-side sales) is in force, other than trading to which the control order does not apply.

- (5) Subject to sub-paragraph (4) above, it shall be the duty of the council to grant an application for a street trading licence or the renewal of such a licence unless they consider that the application ought to be refused on one or more of the grounds specified in sub-paragraph (6) below.
- (6) Subject to sub-paragraph (8) below, the council may refuse an application on any of the following grounds—
- (a) that there is not enough space in the street for the applicant to engage in the trading in which he desires to engage without causing undue interference or inconvenience to persons using the street;
 - (b) that there are already enough traders trading in the street from shops or otherwise in the goods in which the applicant desires to trade ;
 - (c) that the applicant desires to trade on fewer days than the minimum number specified in a resolution under paragraph 2(11) above;
 - (d) that the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;
 - (e) that the applicant has at any time been granted a street trading licence by the council and has persistently refused or neglected to pay fees due to them for it or charges due to them under paragraph 9(6) below for services rendered by them to him in his capacity as licence-holder ;
 - (f) that the applicant has at any time been granted a street trading consent by the council and has persistently refused or neglected to pay fees due to them for it;
 - (g) that the applicant has without reasonable excuse failed to avail himself to a reasonable extent of a previous street trading licence.
- (7) If the council consider that grounds for refusal exist under sub-paragraph (6)(a), (b) or (g) above, they may grant the applicant a licence which permits him—
- (a) to trade on fewer days or during a shorter period in each day than specified in the application ; or
 - (b) to trade only in one or more of the descriptions of goods specified in the application.
- (8) If—
- (a) a person is licensed or otherwise authorised to trade in a street under the provisions of any local Act; and
 - (b) the street becomes a licence street; and
 - (c) he was trading from a fixed position in the street immediately before it became a licence street; and
 - (d) he applied for a street trading licence to trade in the street,
- his application shall not be refused on any of the grounds mentioned in sub-paragraph (6)(a) to (c) above.
- 4 (1) A street trading licence shall specify—
- (a) the street in which, days on which and times between which the licence-holder is permitted to trade ; and
 - (b) the description of articles in which he is permitted to trade.

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- (2) If the district council determine that a licence-holder is to confine his trading to a particular place in the street, his street trading licence shall specify that place.
 - (3) Matters that fall to be specified in a street trading licence by virtue of sub-paragraph (1) or (2) above are referred to in this Schedule as the " principal terms " of the licence
 - (4) When granting or renewing a street trading licence, the council may attach such further conditions (in this Schedule referred to as the " subsidiary terms" of the licence) as appear to them to be reasonable.
 - (5) Without prejudice to the generality of sub-paragraph (4) above, the subsidiary terms of a licence may include conditions—
 - (a) specifying the size and type of any stall or container which the licence-holder may use for trading ;
 - (b) requiring that any stall or container so used shall carry the name of the licence-holder or the number of his licence or both ; and
 - (c) prohibiting the leaving of refuse by the licence-holder or restricting the amount of refuse which he may leave or the places in which he may leave it.
 - (6) A street trading licence shall, unless previously revoked or surrendered, remain valid for a period of 12 months from the date on which it is granted or, if a shorter period is specified in the licence, for that period.
 - (7) If a district council resolve that the whole or part of a licence street shall be designated a prohibited street, then, on the designation taking effect, any street trading licence issued for trading in that street shall cease to be valid so far as it relates to the prohibited street.
- 5
- (1) A district council may at any time revoke a street trading licence if they consider—
 - (a) that, owing to circumstances which have arisen since the grant or renewal of the licence, there is not enough space in the street for the licence-holder to engage in the trading permitted by the licence without causing undue interference or inconvenience to persons using the street;
 - (b) that the licence-holder is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason ;
 - (c) that, since the grant or renewal of the licence, the licence holder has persistently refused or neglected to pay fees due to the council for it or charges due to them under paragraph 9(6) below for services rendered by them to him in his capacity as licence-holder ; or
 - (d) that, since the grant or renewal of the licence, the licence-holder has without reasonable excuse failed to avail himself of the licence to a reasonable extent.
 - (2) If the council consider that they have ground for revoking a licence by virtue of sub-paragraph (1)(a) or (d) above, they may, instead of revoking it, vary its principal terms—
 - (a) by reducing the number of days or the period in any one day during which the licence-holder is permitted to trade ; or
 - (b) by restricting the descriptions of goods in which he is permitted to trade.
 - (3) A licence-holder may at any time surrender his licence to the council and it shall then cease to be valid.

- 6 (1) When a district council receive an application for the grant or renewal of a street trading licence, they shall within a reasonable time—
- (a) grant a licence in the terms applied for ; or
 - (b) serve notice on the applicant under sub-paragraph (2) below.
- (2) If the council propose—
- (a) to refuse an application for the grant or renewal of a licence ; or
 - (b) to grant a licence on principal terms different from those specified in the application ; or
 - (c) to grant a licence confining the applicant's trading to a particular place in a street; or
 - (d) to vary the principal terms of a licence ; or
 - (e) to revoke a licence,
- they shall first serve a notice on the applicant or, as the case may be, the licence-holder—
- (i) specifying the ground or grounds on which their decision would be based ; and
 - (ii) stating that within 7 days of receiving the notice he may in writing require them to give him an opportunity to make representations to them concerning it.
- (3) Where a notice has been served under sub-paragraph (2) above, the council shall not determine the matter until either—
- (a) the person on whom it was served has made representations to them concerning their decision ; or
 - (b) the period during which he could have required them to give him an opportunity to make representations has elapsed without his requiring them to give him such an opportunity ; or
 - (c) the conditions specified in sub-paragraph (4) below are satisfied.
- (4) The conditions mentioned in sub-paragraph (3)(c) above are—
- (a) that the person on whom the notice under sub-paragraph (2) above was served has required the council to give him an opportunity to make representations to them concerning it, as provided by sub-paragraph (2)(ii) above ;
 - (b) that the council have allowed him a reasonable period for making his representations ; and
 - (c) that he has failed to make them within that period.
- (5) A person aggrieved—
- (a) by the refusal of a council to grant or renew a licence, where—
 - (i) they specified in their notice under sub-paragraph (2) above one of the grounds mentioned in paragraph 3(6)(d) to (g) above as the only ground on which their decision would be based ; or
 - (ii) they specified more than one ground in that notice but all the specified grounds were grounds mentioned in those paragraphs ; or
 - (b) by a decision of a council to grant him a licence with principal terms different from those of a licence which he previously held, where they specified in their notice under sub-paragraph (2) above the ground mentioned in paragraph 3(6)(g) above as the only ground on which their decision would be based ; or

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- (c) by a decision of a council—
- (i) to vary the principal terms of a licence ; or
 - (ii) to revoke a licence,
- in a case where they specified in their notice under sub-paragraph (2) above one of the grounds mentioned in paragraph 5(1)(b) to (d) above as the only ground on which their decision would be based or they specified more than one ground in that notice but all the specified grounds were grounds mentioned in those paragraphs,

may, at any time before the expiration of the period of 21 days beginning with the date upon which he is notified of the refusal or decision, appeal to the magistrates' court acting for the petty sessions area in which the street is situated.

- (6) An appeal against the decisions of a magistrates' court under this paragraph may be brought to the Crown Court.
- (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 (11) below, it shall be the duty of the council to give effect to an order of the magistrates' court or the Crown Court.
- (9) The council need not give effect to the order of the magistrates' court until the time for bringing an appeal under sub-paragraph (6) above has expired and, if such an appeal is duly brought, until the determination or abandonment of the appeal.
- (10) If a licence-holder applies for renewal of his licence before the date of its expiry, it shall remain valid—
- (a) until the grant by the council of a new licence with the same principal terms ; or
 - or
 - (b) if—
 - (i) the council refuse renewal of the licence or decide to grant a licence with principal terms different from those of the existing licence, and
 - (ii) he has a right of appeal under this paragraph, until the time for bringing an appeal has expired or, where an appeal is duly brought, until the determination or abandonment of the appeal; or
 - (c) if he has no right of appeal under this paragraph, until the council either grant him a new licence with principal terms different from those of the existing licence or notify him of their decision to refuse his application.
- (11) Where—
- (a) a council decide—
 - (i) to vary the principal terms of a licence ; or
 - (ii) to revoke a licence ; and
 - (b) a right of appeal is available to the licence-holder under this paragraph,
- the variation or revocation shall not take effect until the time for bringing an appeal has expired or, where an appeal is duly brought, until the determination or abandonment of the appeal.

Street trading consents

- 7 (1) An application for a street trading consent or the renewal of such a consent shall be made in writing to the district council.

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- (2) Subject to sub-paragraph (3) below, the council may grant a consent if they think fit.
- (3) A street trading consent shall not be granted—
 - (a) to a person under the age of 17 years ; or
 - (b) for any trading in a highway to which a control order under section 7 of the Local Government (Miscellaneous Provisions) Act 1976 is in force, other than trading to which the control order does not apply.
- (4) When granting or renewing a street trading consent the council may attach such conditions to it as they consider reasonably necessary.
- (5) Without prejudice to the generality of sub-paragraph (4) above, the conditions that may be attached to a street trading consent by virtue of that sub-paragraph include conditions to prevent—
 - (a) obstruction of the street or danger to persons using it; or
 - (b) nuisance or annoyance (whether to persons using the street or otherwise).
- (6) The council may at any time vary the conditions of a street trading consent.
- (7) Subject to sub-paragraph (8) below, the holder of a street trading consent shall not trade in a consent street from a van or other vehicle or from a stall, barrow or cart.
- (8) The council may include in a street trading consent permission for its holder to trade in a consent street—
 - (a) from a stationary van, cart, barrow or other vehicle ; or
 - (b) from a portable stall.
- (9) If they include such a permission, they may make the consent subject to conditions—
 - (a) as to where the holder of the street trading consent may trade by virtue of the permission ; and
 - (b) as to the times between which or periods for which he may so trade.
- (10) A street trading consent may be granted for any period not exceeding 12 months but may be revoked at any time.
- (11) The holder of a street trading consent may at any time surrender his consent to the council and it shall then cease to be valid.

General

- 8 The holder of a street trading licence or a street trading consent may employ any other person to assist him in his trading without a further licence or consent being required.
- 9 (1) A district council may charge such fees as they consider reasonable for the grant or renewal of a street trading licence or a street trading consent.
(2) A council may determine different fees for different types of licence or consent and, in particular, but without prejudice to the generality of this sub-paragraph, may determine fees differing according—
 - (a) to the duration of the licence or consent;
 - (b) to the street in which it authorises trading; and
 - (c) to the descriptions of articles in which the holder is authorised to trade.

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- (3) A council may require that applications for the grant or renewal of licences or consents shall be accompanied by so much of the fee as the council may require, by way of a deposit to be repaid by the council to the applicant if the application is refused.
- (4) A council may determine that fees may be paid by instalments.
- (5) Where a consent is surrendered or revoked, the council shall remit or refund, as they consider appropriate, the whole or a part of any fee paid for the grant or renewal of the consent.
- (6) A council may recover from a licence-holder such reasonable charges as they may determine for the collection of refuse, the cleansing of streets and other services rendered by them to him in his capacity as licence-holder.
- (7) Where a licence—
- (a) is surrendered or revoked ; or
 - (b) ceases to be valid by virtue of paragraph 4(7) above,
- the council may remit or refund, as they consider appropriate, the whole or a part—
- (i) of any fee paid for the grant or renewal of the licence ; or
 - (ii) of any charges recoverable under sub-paragraph (6) above.
- (8) The council may determine—
- (a) that charges under sub-paragraph (6) above shall be included in a fee payable under sub-paragraph (1) above ; or
 - (b) that they shall be separately recoverable.
- (9) Before determining charges to be made under sub-paragraph (6) above or varying the amount of such charges the council—
- (a) shall give notice of the proposed charges to licence-holders ; and
 - (b) shall publish notice of the proposed charges in a local newspaper circulating in their area.
- (10) A notice under sub-paragraph (9) above shall specify a reasonable period within which representations concerning the proposed charges may be made to the council.
- (11) It shall be the duty of a council to consider any such representations which are made to them within the period specified in the notice.

Offences

- 10 (1) A person who—
- (a) engages in street trading in a prohibited street; or
 - (b) engages in street trading in a licence street or a consent street without being authorised to do so under this Schedule ; or
 - (c) contravenes any of the principal terms of a street trading licence ; or
 - (d) being authorised by a street trading consent to trade in a consent street, trades in that street—
 - (i) from a stationary van, cart, barrow or other vehicle ; or
 - (ii) from a portable stall,
 without first having been granted permission to do so under paragraph 7(8) above ; or

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- (e) contravenes a condition imposed under paragraph 7(9) above, shall be guilty of an offence.
- (2) It shall be a defence for a person charged with an offence under sub-paragraph (1) above to prove that he took all reasonable precautions and exercised all due diligence to avoid commission of the offence.
- (3) Any person who, in connection with an application for a street trading licence or for a street trading consent, 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.
- (4) A person guilty of an offence under this paragraph shall be liable on summary conviction to a fine not exceeding £200.

Savings

- 11 Nothing in this Schedule shall affect—
- (a) section 13 of the Markets and Fairs Clauses Act 1847 (prohibition of sales elsewhere than in market or in shops etc.) as applied by any other Act;
 - (b) section 55 of the Food and Drugs Act 1955 (prohibition of certain sales during market hours).

SCHEDULE 5

Section 20.

HIGHWAY AMENITIES

PART I

ADDITION OF PART VIIA TO HIGHWAYS ACT 1980

- 1 The following shall be inserted after section 115 of the Highways Act 1980—

“PART VIIA

PROVISION OF AMENITIES ON CERTAIN HIGHWAYS

115A Scope of Part VIIA.

- (1) This Part of this Act applies—
 - (a) to a highway in relation to which a pedestrian planning order is in force ;
 - (b) to a bridleway ;
 - (c) to a footpath (including a walkway as defined in section 35(2) above);
 - (d) to a footway ;
 - (e) to a subway constructed under section 69 above ;
 - (f) to a footbridge constructed under section 70 above;
 - (g) to a highway of a description not mentioned in any of the preceding paragraphs of this definition whose use by vehicular traffic is

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prohibited by a traffic order but whose use by other traffic is not prohibited or restricted or regulated by such an order ; and

(h) to a local Act walkway.

(2) In this Part of this Act—

" local Act walkway " means a way or place which is declared in pursuance of a local enactment to be a walkway, city walkway or pedestrian way ;

" pedestrian planning order " means an order made under section 212(2) of the Town and Country Planning Act 1971 ; and

" traffic order " means an order made under section 1 or 6 of the Road Traffic Regulation Act 1967 (traffic regulation orders) or under section 9 of that Act (experimental traffic orders); and

" walkway consent " means—

(a) in relation to a walkway as defined in section 35(2) above, the consent—

(i) of any person who is an occupier of the building in which the walkway subsists and to whom subsection (3) below applies ; and

(ii) of the persons whose agreement would be needed for the creation of the walkway if it did not already subsist; and

(b) in relation to a local Act walkway, the consent—

(i) of any person who is an owner or occupier of premises adjoining the walkway and to whom subsection (3) below applies ; and

(ii) of the owner of the land on, under or above which the walkway subsists.

(3) The persons to whom this subsection applies are persons who, in the opinion of a council, are likely to be materially affected—

(a) by the exercise of a power which the council may not exercise until they have first obtained walkway consent; or

(b) by a grant of permission which the council may not grant unless they have first obtained walkway consent.

(4) In the following provisions of this Part of this Act " walkway " includes both a walkway as defined in section 35(2) above and a local Act walkway.

(5) Any reference in this Part of this Act to a highway to which this Part of this Act applies includes a reference to a local Act walkway which but for this subsection—

(a) is not a highway ; or

(b) is a highway only for certain purposes.

(6) The use of a highway by vehicular traffic is to be taken as prohibited for the purposes of this Part of this Act where its use by such traffic is prohibited over the whole width of the highway even if the prohibition is contained in a traffic order which does not prohibit certain vehicles or certain classes of vehicle using the highway or part of it or using the highway or part of it at certain times or on certain days or during certain periods.

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- (7) In this Part of this Act " frontagers " means the owners and occupiers of any premises adjoining the part of a highway on, in or over which an object or structure would be placed or on which facilities for recreation or refreshment or both have been, are being or would be provided ; but frontagers have an interest under this Part of this Act only in proposals to place objects or structures or provide or operate facilities wholly or partly between their premises and the centre of the highway.
- (8) References to a council in this Part of this Act include references to the Council of the Isles of Scilly.

115B Provision etc. of services and amenities by councils.

- (1) Subject to subsections (4), (5) and (7) below, a council shall have power—
- (a) to carry out works on, in or over a highway to which this Part of this Act applies ; and
 - (b) to place objects or structures on, in or over such a highway,
- for the purpose—
- (i) of giving effect to a pedestrian planning order;
 - (ii) of enhancing the amenity of the highway and its immediate surroundings; or
 - (iii) of providing a service for the benefit of the public or a section of the public.
- (2) A council shall have power to maintain—
- (a) any works carried out under paragraph (a) of subsection (1) above ; and
 - (b) any objects or structures placed on, in or over a highway under paragraph (b) of that subsection.
- (3) Without prejudice to the generality of this section, the amenity of a highway may be enhanced by providing lawns, trees, shrubs or flowers.
- (4) A council may not exercise the powers conferred by this section on, in or over a walkway unless they have first obtained walkway consent.
- (5) Where subsection (6) below applies, a council may not, in the exercise of the power conferred by subsection (1)(b) above, place an object or structure on, in or over a highway—
- (a) for a purpose which will result in the production of income ; or
 - (b) for the purpose of providing a centre for advice or information,
- unless they have first obtained the consent of the frontagers with an interest—
- (i) to the placing of the object or structure ; and
 - (ii) to the purpose for which it is to be placed.
- (6) This subsection applies where the object or structure would be placed—
- (a) on, in or over a footpath ;
 - (b) on, in or over a bridleway ; or
 - (c) on, in or over a footway in relation to which no pedestrian planning order or traffic order is in force.

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- (7) Where a council propose—
- (a) to place an object or structure on, in or over a highway to which this Part of this Act applies—
 - (i) for a purpose which will result in the production of income ;
 - or
 - (ii) for the purpose of providing a centre for advice or information ; and
 - (b) to grant a person permission under section 115E below to use the object or structure,
- they may not exercise the power conferred by subsection (1)(b) above unless they have first obtained the consent of the frontagers with an interest—
- (i) to the placing of the object or structure ;
 - (ii) to the purpose for which it would be placed ; and
 - (iii) to the proposed grant of permission.

115C Provision of recreation and refreshment facilities by councils.

- (1) Subject to subsections (2) and (3) below, a council shall have power to provide, maintain and operate facilities for recreation or refreshment or both on a highway to which this Part of this Act applies.
- (2) A council may not exercise the powers conferred by this section on a walkway unless they have first obtained walkway consent.
- (3) Where subsection (4) below applies, a council may not exercise the powers conferred by this section unless they have first obtained the consent of the frontagers with an interest.
- (4) This subsection applies where the facilities are to be provided—
 - (a) on a footpath ; or
 - (b) on a bridleway ; or
 - (c) on a footway in relation to which no pedestrian planning order or traffic order is in force.

115D Limits of powers under ss. 115B and 115C.

A council may exercise their powers under section 115B or 115C above to restrict the access of the public to any part of a highway to which this Part of this Act applies, but shall not so exercise them—

- (a) as to prevent traffic, other than vehicular traffic.—
 - (i) entering the highway at any place where such traffic could enter it before, as the case may be, the making of a pedestrian planning order or a traffic order in relation to it or the exercise in relation to it of a power conferred by this Part of this Act; or
 - (ii) passing along it; or
 - (iii) having normal access to premises adjoining it; or
- (b) as to prevent any use of vehicles which is permitted by a pedestrian planning order or which is not prohibited by a traffic order; or

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- (c) as to prevent statutory undertakers or sewerage authorities having access to any apparatus of theirs under, in, on or over the highway.

115E Execution of works and use of objects etc. by persons other than councils.

- (1) Subject to subsections (2) to (4) below, a council may grant a person permission—
 - (a) to do on, in or over a highway to which this Part of this Act applies anything which the council could do on, in or over such a highway under section 115B(1) to (3) or 115C above ; or
 - (b) to use objects or structures on, in or over a highway to which this Part of this Act applies—
 - (i) for a purpose which will result in the production of income ;
 - (ii) for the purpose of providing a centre for advice or information ; or
 - (iii) for the purpose of advertising.
- (2) A council may not grant a person permission under subsection (1)(a) above to place an object or structure on, in or over a highway to which this Part of this Act applies—
 - (a) for a purpose which will result in the production of income ; or
 - (b) for the purpose of providing a centre for advice or information, unless they have first obtained the consent of the frontagers with an interest—
 - (i) to the placing of the object or structure ;
 - (ii) to the purpose for which it would be placed ; and
 - (iii) to the proposed grant of permission.
- (3) A council may not grant a person permission to do anything which the council could only do under section 115C above unless they have first obtained the consent of the frontagers with an interest.
- (4) A council may not grant a person permission—
 - (a) to carry out works on, in or over a walkway ;
 - (b) to place an object or structure on, in or over a walkway ; or
 - (c) to provide, maintain or operate facilities for re creation or refreshment or both on a walkway,unless they have first obtained walkway consent.

115F Power to impose conditions on permissions under section 115E.

- (1) Subject to subsections (2) to (4) below, a council may grant a permission under section 115E above upon such conditions as they think fit, including conditions requiring the payment to the council of such reasonable charges as they may determine.
- (2) Except where the council are the owners of the subsoil beneath the part of the highway in relation to which the permission is granted, the charges may not exceed the standard amount.
- (3) In subsection (2) above, " the standard amount" means—

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- (a) in relation to permission to use an object or structure provided by a council, the aggregate—
 - (i) of the cost of providing it; and
 - (ii) of such charges as will reimburse the council their reasonable expenses in connection with granting the permission ;
 - (b) in relation to permission to operate facilities provided by a council for recreation or refreshment or both, the aggregate—
 - (i) of the cost of providing them ; and
 - (ii) of such charges as will reimburse the council their reasonable expenses in connection with granting the permission ; and
 - (c) in any other case, such charges as will reimburse the council their reasonable expenses in connection with granting the permission.
- (4) Nothing in this section shall prejudice the right of a council to require an indemnity against any claim in respect of injury, damage or loss arising out of the grant of the permission ; but this subsection is not to be taken as requiring any person to indemnify a council against any claim in respect of injury, damage or loss which is attributable to the negligence of the council.

115G Notices to be given before exercise of powers under Part V11A.

- (1) Subject to subsection (4) below, a council shall not—
 - (a) exercise any power conferred by section 115B or 115C above ; or
 - (b) grant any permission under section 115E above unless they have first published a notice under this section.
- (2) A council shall publish a notice under this section—
 - (a) by affixing it in a conspicuous position at or near the place to which the proposal relates ; and
 - (b) by serving a copy of the notice on the owner and occupier of any premises appearing to the council to be likely to be materially affected.
- (3) A notice under this section—
 - (a) shall give details of the proposal; and
 - (b) shall specify a period (being not less than 28 days after the publication of the notice) during which representations regarding the proposal may be made to the council.
- (4) No notice under this section is required where a council propose to exercise a power conferred by section 115B or 115C above in relation to a highway in relation to which a pedestrian planning order or a traffic order has been made.
- (5) Where a council have published a notice under this section, they shall not exercise the power or grant the permission to which the notice relates until they have taken into consideration all representations made to them in connection with the proposal within the period specified in the notice.

115H Duties to consult or obtain consent of other authorities.

- (1) Subject to subsections (2) and (3) below, a council shall not—
 - (a) exercise any power conferred by section 115B or 115C above ; or
 - (b) grant any permission under section 115E above, in relation to a highway unless they have consulted—
 - (i) any authority other than themselves who are the highway authority for the highway; and
 - (ii) any authority other than themselves who are a local planning authority, as defined in the Town and Country Planning Act 1971, for the area in which, as the case may be, they propose to exercise the power or to which the proposed permission would relate.
- (2) Where a highway to which this Part of this Act applies is situated in Greater London, subsection (1) above shall have effect in relation to the highway as if the requirement to consult the highway authority and the local planning authority were a requirement to obtain their consent to the exercise of the power or the granting of the permission.
- (3) Where
 - (a) a highway to which this Part of this Act applies is situated outside Greater London ; and
 - (b) there is no pedestrian planning order in force in relation to it,subsection (1) above shall have effect in relation to the highway as if the requirement to consult the highway authority were a requirement to obtain their consent to the exercise of the power or the granting of the permission.
- (4) Where a highway to which this Part of this Act applies is maintained by the British Railways Board or the London Transport Executive, a council shall not exercise any power conferred by section 115B or 115C above or grant a permission in relation to it under section 115E above except with the consent of the Board or, as the case may be, the Executive.

115J Consents not to be unreasonably withheld.

- (1) Consent to which this section applies is not to be unreasonably withheld but may be given subject to any reasonable conditions.
- (2) Without prejudice to the generality of subsection (1) above, it may be reasonable for consent to which this section applies to be given for a specified period of time or subject to the payment of a reasonable sum.
- (3) Consent is to be treated as unreasonably withheld for the purposes of this section if—
 - (a) the council have served a notice asking for con sent on the person whose consent is required ; and
 - (b) he fails within 28 days of the service of the notice to give the council notice of his consent or his refusal to give it.
- (4) Any question whether consent is unreasonably withheld or is given subject to reasonable conditions shall be referred to and determined by an arbitrator

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to be appointed, in default of agreement, by the President of the Chartered Institute of Arbitrators.

- (5) If—
- (a) the arbitrator determines that consent has been unreasonably withheld; but
 - (b) it appears to him that there are conditions subject to which it would be reasonable to give it,
- he may direct that it shall be treated as having been given subject to those conditions.
- (6) If—
- (a) the arbitrator determines that any condition subject to which consent has been given is unreasonable ; but
 - (b) it appears to him that there are conditions subject to which it would have been reasonable to give it,
- he may direct that it shall be treated as having been given subject to those conditions.
- (7) Subject to subsection (8) below, the expenses and remuneration of the arbitrator shall be paid by the council seeking the consent.
- (8) Where the arbitration concerns the consent of the British Railways Board or the London Transport Executive under section 115H(4) above, the arbitrator may give such directions as he thinks fit as to the payment of his expenses and remuneration.
- (9) This section applies to consent required under any provision of this Part of this Act except section 115H(1) above.

115K Failure to comply with terms of permission.

- (1) If it appears to a council that a person to whom they have granted a permission under section 115E above has committed any breach of the terms of that permission, they may serve a notice on him requiring him to take such steps to remedy the breach as are specified in the notice within such time as is so specified.
- (2) If a person on whom a notice is served under subsection (1) above fails to comply with the notice, the council may take the steps themselves.
- (3) Where a council have incurred expenses in the exercise of the power conferred on them by subsection (2) above, those expenses, together with interest at such reasonable rate as the council may determine from the date of service of a notice of demand for the expenses, may be recovered by the council from the person on whom the notice under subsection (1) above was served.”.

PART II

AMENDMENTS OF TOWN AND COUNTRY PLANNING ACT 1971

- 2 In section 212 of the Town and Country Planning Act 1971 (order extinguishing right to use vehicles on highway) the following subsection shall be inserted after subsection (8)—
- “(8A) An order under subsection (8) of this section may make provision requiring the removal of any obstruction of a highway resulting from the exercise of powers under Part V11A of the Highways Act 1980.”.
- 3 Section 213 of that Act (provision of amenity for highway reserved to pedestrians) shall cease to have effect, and " 212 " shall accordingly be substituted for " 213 " in Part II of Schedule 21.

SCHEDULE 6

Section 47.

MINOR AMENDMENTS

Health

- 1 In subsection (1)(b) of section 3 of the Public Health Act 1936 (jurisdiction, powers, etc. of port health authority) for the words from " contained " onwards there shall be substituted the words " relating to public health, waste disposal or the control of pollution, whether passed before or after, or contained in, this Act ".
- 2 In subsection (1)(c) of section 169 of that Act (provision for removal to hospital of persons suffering from notifiable disease where serious risk of infection) after the word " hospital" there shall be inserted the words " vested in the Secretary of State, ".
- 3 In section 160(3) of that Act (which provides in certain cases for the recovery of a sum in respect of disinfecting a public conveyance) for the words " in a summary manner" there shall be substituted the words " summarily as a civil debt ".
- 4 In section 267 of that Act (application to ships and boats of certain provisions of Act), in paragraph (a) of subsection (3), after the words " county, of the " there shall be inserted the words " port health authority or " ; and at the end of that section there shall be added the following subsection—
- “(6) In determining for the purposes of subsection (1) above what provisions of this Act specified in subsection (4) above are provisions for the execution of which local authorities are responsible, no account shall be taken of any enactment (whether contained in this Act or not) relating to port health authorities or joint boards or to any particular port health authority or joint board or of any instrument made under any such enactment”.
- 5 In section 346(1)(c) of that Act (by virtue of which, among other things, an order, rule or regulation which was made under any enactment repealed by that Act but which could have been made under a corresponding provision of that Act has effect as if it had been made under that corresponding provision) after the word " regulation," there shall be inserted the word " byelaw, ".

Status: This is the original version (as it was originally enacted).

- 6 In section 48(2)(b)(iii) of the Health Services and Public Health Act 1968 (which requires a copy of a certificate to be sent in certain cases to the proper officer of the relevant port health authority constituted in pursuance of section 2 of the Public Health Act 1936) the words " constituted in pursuance of section 2 of the Public Health Act 1936 " shall be omitted.

Planning

- 7 The Town and Country Planning Act 1971 shall be amended—
- (a) by inserting the words " and paragraph 8 of Schedule 16 to the Local Government Act 1972 " after the word " Act " in section 10(7); and
 - (b) in the provisions specified in the first column of the Table below, by substituting the corrected text set out in the third column for the portion of the text indicated in the second column.

TABLE

<i>Provision of 1971 Act</i>	<i>Text to be corrected</i>	<i>Corrected text</i>
Section 7(4)	(3)(a)	(1A)(a)
Section 15(3)	The words from the beginning to " the provisions of"	Subject to subsection (4) of this section and to section 15A of this Act,
Section 15A(6)	mentioned in subsection (4)	specified in subsection (7)
Section 15A(7)	(3) above	(6) of this section
Section 23(9)	served	issued
Section 177(2)(a)	88(1)	88(2)
Section 242(3)(f)	section 88(5)(a) of this Act	paragraph (a) of section 88B(1) of this Act or to discharge a condition or limitation under paragraph (b) of that subsection.
Section 242(3)(h)	The words from " under subsection (5) (a)" onwards.	to grant listed building consent under paragraph (a) of section 97A(4) of this Act or to discharge a condition or limitation under paragraph (b) of that subsection.
Schedule 4, paragraph 12(2)	15A(3)	15A(6)

Direct labour

- 8 (1) The following subsection shall be added at the end of section 21 of the Local Government, Planning and Land Act 1980 (which exempts small direct labour organisations from the requirements of Part III of that Act)—

“(8) In this section " year " means a financial year.”.

- (2) This paragraph extends to Scotland.

SCHEDULE 7

Section 47.

REPEALS

PART I

REPEALS IN PUBLIC GENERAL ACTS IN CONSEQUENCE OF SECTION 1

Chapter	Short Title	Extent of Repeal
53 & 54 Vict. c. 59.	Public Health Acts Amendment Act 1890.	Section 51.
16 & 17 Geo. 5. c. 31.	Home Counties (Music and Dancing) Licensing Act 1926.	The whole Act.
12, 13 & 14 Geo. 6. c. 101.	Justices of the Peace Act 1949.	In section 41, in subsection (1), the words " or music and dancing licence", in subsection (4) the words from " and the " to the end and subsection (5).
1964 c. 26.	Licensing Act 1964.	In section 77 the words from " in any area " to " dancing " . In section 78 the words from "and which are "to "dancing" . Section 79(7).
1966 c. 42.	Local Government Act 1966.	In Schedule 3, in Part II, paragraphs 10 and 27.
1967 c. 19.	Private Places of Entertainment (Licensing) Act 1967.	Section 6.
1967 c. 80.	Criminal Justice Act 1967.	In Schedule 3, in Part I, the entries relating to the Public Health Acts Amendment Act 1890 and the Home Counties (Music and Dancing) Licensing Act 1926.

Status: This is the original version (as it was originally enacted).

Chapter	Short Title	Extent of Repeal
1972 c. 70.	Local Government Act 1972.	Section 204(7). In Schedule 14, in Part II, paragraph 24(c), paragraph 25(2) (b) and paragraph 26(b). In Schedule 25, in Part II, paragraphs 10 to 12. In Schedule 29, paragraph 27.
1974 c. 7.	Local Government Act 1974.	In Schedule 6, paragraph 3.
1980 c. 43.	Magistrates' Courts Act 1980.	In Schedule 6, in Part III, paragraph 2.

PART II

REPEALS IN LOCAL ACTS IN CONSEQUENCE OF SECTION 1

Chapter	Short Title	Extent of Repeal
1976 c. xxxi.	Royal County of Berkshire (Public Entertainment) Provisional Order Confirmation Act 1976.	The whole Act.
1976 c. xxxv.	County of South Glamorgan Act 1976.	Sections 15 to 23. In section 24, the words " this Part of this Act or ". In section 66(2)(b), the words " Part IV (Music and dancing licences in Cardiff);". In Schedule 3, in Part I, the words "Section 19 (Fines under Part IV of Act);".
1979 c. xxiii.	Greater London Council (General Powers) Act 1979.	Paragraph (b) of section 3.
1980 c. x.	County of Merseyside Act 1980.	Sections 73 to 80. In section 81(1) the words " of an entertainment licence, or ". In section 137(2), the words " Section 76 (Offences under Part XI);".
1980 c. xi.	West Midlands County Council Act 1980.	Sections 59 to 66.

Status: This is the original version (as it was originally enacted).

Chapter	Short Title	Extent of Repeal
1980 c. xiii.	Cheshire County Council Act 1980.	In section 67(1), the words " of an entertainment licence or ". Section 93. In section 116(2), the words " Section 62 (Offences under Part VIII);". Sections 32 to 39.
1980 c. xiv.	West Yorkshire Act 1980.	In section 40(1), the words " of an entertainment licence or ". In section 108(2), the words " Section 35 (Offences under Part VII);". Sections 25 to 32.
1980 c. xxxvii.	South Yorkshire Act 1980.	In section 33(1), the words " of an entertainment licence or ". In Schedule 3, the words " Section 28 (Offences under Part VII);". Section 48.
1981 c. ix.	Greater Manchester Act 1981.	Sections 107 to 114. In section 115(1), the words " of an entertainment licence or ". In section 179(2), the words " Section 110 (Offences under Part XIII);".
1981 c. xviii.	County of Kent Act 1981.	Sections 63 to 70. In section 71(1), the words " of an entertainment licence or ". In section 128(2) the words " Section 66 (Offences under Part X);".
1981 c. xxv.	East Sussex Act 1981.	Section 30.

Status: This is the original version (as it was originally enacted).

PART III

REPEAL IN LOCAL ACT IN CONSEQUENCE OF SECTION 8

Chapter	Short Title	Extent of Repeal
1980 c. xi.	West Midlands County Council Act 1980.	Section 51.

PART IV

REPEALS IN PUBLIC GENERAL ACTS IN CONSEQUENCE OF SECTION 11

Chapter	Short Title	Extent of Repeal
15 & 16 Geo. 5. c. 50.	Theatrical Employers Registration Act 1925.	The whole Act.
18 & 19 Geo.5. c.46.	Theatrical Employers Registration (Amendment) Act 1928.	The whole Act.
1968 c. 54.	Theatres Act 1968.	In Schedule 2, the entry relating to the Theatrical Employers Registration Act 1925.
1971 c. 23.	Courts Act 1971.	In Schedule 9, the entry relating to the Theatrical Employers Registration Act 1925.
1972 c. 70.	Local Government Act 1972.	In section 204(6), the words from " and in the definition " to the end.
1972 c. 71.	Criminal Justice Act 1972.	In Schedule 5, the entry relating to the Theatrical Employers Registration Act 1925.
1973 c. 65.	Local Government (Scotland) Act 1973.	In Schedule 24, in Part III, paragraph 35.
1980 c 65.	Local Government, Planning and Land Act 1980.	In Schedule 6, paragraphs 2 and 3.

Status: This is the original version (as it was originally enacted).

PART V

REPEALS IN LOCAL ACTS IN CONSEQUENCE OF SECTION 12

Chapter	Short Title	Extent of Repeal
1980 c. x.	County of Merseyside Act 1980.	Section 29.
1980 c. xiii.	Cheshire County Council Act 1980.	Section 31.
1980 c. xxxvii.	South Yorkshire Act 1980.	Section 44.
1981 c. ix.	Greater Manchester Act 1981.	Section 57.
1981 c. xviii.	County of Kent Act 1981.	Section 26.
1981 c. xxv.	East Sussex Act 1981.	Section 91.
1982 c. iii.	Humberside Act 1982.	Section 46.

PART VI

REPEALS IN LOCAL ACTS IN CONSEQUENCE OF SECTION 20

Chapter	Short Title	Extent of Repeal
1976 c. xxxv.	County of South Glamorgan Act 1976.	Section 56.
1979 c. xxiii.	Greater London Council (General Powers) Act 1979.	Section 5. Section 9.
1980 c. x.	County of Merseyside Act 1980.	Sections 11 and 12.
1980 c. xi.	West Midlands County Council Act 1980.	Sections 7 and 8.
1980 c. xiii.	Cheshire County Council Act 1980.	Section 10.
1980 c. xiv.	West Yorkshire Act 1980.	Sections 13 and 14.
1980 c. xv.	Isle of Wight Act 1980.	Sections 11 and 12.
1980 c. xxxvii.	South Yorkshire Act 1980.	Sections 11 and 12.
1980 c. xliii.	Tyne and Wear Act 1980.	Sections 7 to 9.
1981 c. ix.	Greater Manchester Act 1981.	Sections 17 to 19.
1981 c. xviii.	County of Kent Act 1981.	Sections 8 and 9.
1981 c. xxv.	East Sussex Act 1981.	Sections 4 and 5.
1982 c. iii.	Humberside Act 1982.	Sections 31 to 33.

Status: This is the original version (as it was originally enacted).

Chapter	Short Title	Extent of Repeal
1982 c. iv.	County of Avon Act 1982.	Sections 4 and 35.

PART VII

REPEALS IN LOCAL ACTS IN CONSEQUENCE OF SECTION 22

Chapter	Short Title	Extent of Repeal
1980 c. x.	County of Merseyside Act 1980.	Section 14.
1980 c. xi.	West Midlands County Council Act 1980.	Section 10.
1980 c. xiii.	Cheshire County Council Act 1980.	Section 9.
1980 c. xv.	Isle of Wight Act 1980.	Section 51.
1980 c. xxxvii.	South Yorkshire Act 1980.	Section 13.
1981 c. ix.	Greater Manchester Act 1981.	Section 20.
1981 c. xviii.	County of Kent Act 1981.	Section 11.
1981 c. xix.	South Yorkshire Act 1981.	In the Table, the entries relating to section 13(1) and (2) of the South Yorkshire Act 1980.
1981 c. xxv.	East Sussex Act 1981.	Section 6.

PART VIII

REPEALS IN LOCAL ACTS IN CONSEQUENCE OF SECTION 24

Chapter	Short Title	Extent of Repeal
1980 c. xi.	West Midlands County Council Act 1980.	Section 17.
1980 c. xiii.	Cheshire County Council Act 1980.	Section 24.
1980 c. xxxvii.	South Yorkshire Act 1980.	Section 35.
1981 c. xxxiv.	Derbyshire Act 1981.	Section 18.
1982 c. iii.	Humberside Act 1982.	Section 38.
1982 c. iv.	County of Avon Act 1982.	Section 24.

Status: This is the original version (as it was originally enacted).

PART IX

REPEALS IN LOCAL ACTS IN CONSEQUENCE OF SECTION 26

Chapter	Short Title	Extent of Repeal
1980 c. xiv.	West Yorkshire Act 1980.	Section 45.
1980 c. xxxvii.	South Yorkshire Act 1980.	Section 23.
1980 c. xliii.	Tyne and Wear Act 1980.	Section 14.
1981 c. ix.	Greater Manchester Act 1981.	Section 33.
1981 c. xxv.	East Sussex Act 1981.	Section 16.

PART X

REPEALS IN LOCAL ACTS IN CONSEQUENCE OF SECTION 27

Chapter	Short Title	Extent of Repeal
1967 c. xx.	Greater London Council (General Powers) Act 1967.	Section 24.
1980 c. xiv.	West Yorkshire Act 1980.	Section 10.
1980 c. xxxvii.	South Yorkshire Act 1980.	Section 40.
1980 c. xliii.	Tyne and Wear Act 1980.	Section 15.
1981 c. ix.	Greater Manchester Act 1981.	Section 46.
1981 c. xviii.	County of Kent Act 1981.	Sections 24 and 25.
1981 c. xxv.	East Sussex Act 1981.	Section 15.
1982 c. iv.	County of Avon Act 1982.	Section 26.

PART XI

REPEALS IN LOCAL ACTS IN CONSEQUENCE OF SECTION 28

Chapter	Short Title	Extent of Repeal
1976 c. xxxv.	County of South Glamorgan Act 1976.	Section 28.
1980 c. x.	County of Merseyside Act 1980.	Section 17.
1980 c. xliii.	Cheshire County Council Act 1980.	Section 26.
1980 c. xxxvii.	South Yorkshire Act 1980.	Section 30.

Status: This is the original version (as it was originally enacted).

Chapter	Short Title	Extent of Repeal
1980 c. xliii.	Tyne and Wear Act 1980.	Section 20.
1981 c. ix.	Greater Manchester Act 1981.	Section 39.
1981 c. xviii.	County of Kent Act 1981.	Section 27.
1981 c. xxxiv.	Derbyshire Act 1981.	Section 17.
1982 c. iii.	Humberside Act 1982.	Section 43.

PART XII

REPEALS IN LOCAL ACTS IN CONSEQUENCE OF SECTION 33

Chapter	Short Title	Extent of Repeal
1980 c. xiii.	Cheshire County Council Act 1980.	Section 94.
1980 c. xv.	Isle of Wight Act 1980.	Section 17.
1981 c. xviii.	County of Kent Act 1981.	Section 4.
1982 c. iii.	Humberside Act 1982.	Section 50.
1982 c. iv.	County of Avon Act 1982.	Section 46.

PART XIII

REPEALS IN LOCAL ACTS IN CONSEQUENCE OF SECTION 34

Chapter	Short Title	Extent of Repeal
1980 c. xiv.	West Yorkshire Act 1980.	Section 82.
1980 c. xxxvii.	South Yorkshire Act 1980.	Section 90.
1981 c. xxv.	East Sussex Act 1981.	Section 90.

PART XIV

REPEALS IN LOCAL ACTS IN CONSEQUENCE OF SECTION 36

Chapter	Short Title	Extent of Repeal
1980 c. xxxvii.	South Yorkshire Act 1980.	Section 94.
1980 c. xliii.	Tyne and Wear Act 1980.	Section 22.
1981 c. xviii.	County of Kent Act 1981.	Section 31.

Status: This is the original version (as it was originally enacted).

PART XV

REPEALS IN LOCAL ACTS IN CONSEQUENCE OF SECTION 39

Chapter	Short Title	Extent of Repeal
1980 c. xi.	West Midlands County Council Act 1980.	Section 68.
1980 c. xiv.	West Yorkshire Act 1980.	Section 52.
1980 c. xv.	Isle of Wight Act 1980.	Section 47.
1980 c. xxxvii.	South Yorkshire Act 1980.	Section 83.
1981 c. ix.	Greater Manchester Act 1981.	Section 95.
1982 c. iii.	Humberside Act 1982.	Section 54.

PART XVI

MISCELLANEOUS REPEALS IN PUBLIC GENERAL ACTS

Chapter	Short Title	Extent of Repeal
1936 c. 49.	Public Health Act 1936.	In section 2(2), paragraph (ii).
1971 c. 78.	Town and Country Planning Act 1971.	Section 213.
1972 c. 70.	Local Government Act 1972.	In section 140(3), the words from " but" to the end. In Schedule 16, paragraph 9(2).
1974 c. 37.	Health and Safety at Work etc. Act 1974.	Section 63(1) to (4).
1974 c. 44.	Housing Act 1974.	Section 126.
1975 c. 76.	Local Land Charges Act 1975.	In Schedule 1, in the entry relating to the Housing Act 1974, paragraph (e).
1976 c. 57.	Local Government (Miscellaneous Provisions) Act 1976.	Section 8. Section 43.
1980 c. 65.	Local Government, Planning and Land Act 1980.	In section 88(2)(b), the words from " in", in the second place where it occurs, to " proposed) " and the words " in each subsection ". In Schedule 14, paragraph 11(a).