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## SCHEDULES

### SCHEDULE 2 **S**

#### CONTROL OF SEX SHOPS

##### *Objections and representations*

- 8 (1) The [F<sup>1</sup>local authority] shall, as soon as an application for the grant or renewal of a licence under this Schedule is made to them, send a copy of the application to the chief constable and
- [F<sup>2</sup>(a) where Part 3 of the [Fire \(Scotland\) Act 2005 \(asp 5\)](#) applies to the premises, vehicle vessel or stall to which the licence relates, to the enforcing authority;
  - (b) where Part 3 of that Act does not so apply,] to the [F<sup>3</sup>Scottish Fire and Rescue Service] .
- (2) Any objection or representation relating to an application for the grant or renewal of a licence under this Schedule shall, subject to sub-paragraph (3) below, be entertained by the [F<sup>1</sup>local authority] if, but only if, the objection or representation—
- (a) is in writing;
  - (b) specifies the grounds of the objection or, as the case may be, the nature of the representation;
  - (c) specifies the name and address of the person making it;
  - (d) is signed by him or on his behalf;
  - (e) was made to them within 28 days of whichever is the later or, as the case may be, latest of the following dates—
    - (i) the date of submission to them of the application;
    - (ii) the date when public advertisement was first given under paragraph 7(2) above;
    - (iii) the date, if any, specified by the [F<sup>1</sup>local authority] under paragraph 7(10) above.
- (3) Notwithstanding sub-paragraph (2)(e) above, it shall be competent for a [F<sup>1</sup>local authority] to entertain an objection or representation received by them before they take a final decision upon the application to which it relates if they are satisfied that there is sufficient reason why it was not made in the time required under that sub-paragraph.
- (4) An objection or representation shall be made for the purposes of sub-paragraph (2) above if it is delivered by hand within the time there specified to the [F<sup>1</sup>local authority] or posted (by registered or recorded delivery post) so that in the normal course of post it might be expected to be delivered to them within that time.
- [F<sup>4</sup>(4A) Where a local authority have determined to accept objections and representations by means of an electronic communication under paragraph 22A, an objection or representation is made for the purpose of sub-paragraph (2) of this paragraph if it is sent—

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- (a) to the authority by means of an electronic communication which complies with the determination, and
- (b) within the time specified in sub-paragraph (2).

(4B) Sub-paragraph (4A) is without prejudice to sub-paragraph (4).]

- (5) Where the [F1local authority] receive notice of a relevant objection or representation they shall, before considering the application, give notice in writing of the general terms of the objection or representation to the applicant but they shall not without the consent of the person making the objection or representation reveal his name or address to the applicant.
- (6) In considering an application for the grant or renewal of a licence under this Schedule, a [F1local authority] may make such reasonable inquiries as they think fit and include the results of these inquiries in matters they take into account, but where they intend so to include any of these results they shall notify the applicant of that intention.
- (7) A [F1local authority] may, before reaching a final decision upon such an application, give the applicant and any person who has made a relevant objection or representation an opportunity to be heard by them [F5 and, where they propose to do so, must, within such reasonable period (not being less than 14 days) of the date of the hearing, notify the applicant and each such person of that date] .
- (8) A [F1local authority] shall not reach a final decision upon such an application—
  - (a) in relation to which a relevant objection or representation has been made to them, or in relation to which they intend to take into account any result of their inquiries under sub-paragraph (6) above; and
  - (b) in respect of which they have not, under this paragraph, given the applicant and any person who has made such objection or representation an opportunity to be heard,
 unless they have given the applicant an opportunity to notify them in writing of his views on such objection or representation or, as the case may be, result within such reasonable period (not being less than 7 days) as they may specify.

#### Textual Amendments

- F1** Words in Sch. 2 para. 8 substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 129(22)(a)**; S.I. 1996/323, **art. 4(1)(c)**
- F2** Words in Sch. 2 para. 8(1) inserted (1.10.2006) by **The Fire (Scotland) Act 2005 (Consequential Modifications and Savings) Order 2006 (S.S.I. 2006/475)**, art. 1, **sch. 1 para. 11(7)(a)**
- F3** Words in Sch. 2 para. 8(1)(b) substituted (1.4.2013) by **Police and Fire Reform (Scotland) Act 2012 (asp 8)**, s. 129(2), **sch. 7 para. 53(7)**; S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)
- F4** Sch. 2 para. 8(4A)(4B) inserted (1.11.2016) by **Air Weapons and Licensing (Scotland) Act 2015 (asp 10)**, **ss. 83(3)(a)**, 88(2); S.S.I. 2016/307, art. 2, sch.
- F5** Words in Sch. 2 para. 8(7) inserted (28.2.2011) by **Criminal Justice and Licensing (Scotland) Act 2010 (asp 13)**, **ss. 178(3)(d)**, 206(1); S.S.I. 2010/413, art. 2, sch. (with sch.)

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 22(1)(c) repealed by [2015 asp 10 s. 65\(3\)](#)
- s. 49(9) added by [2010 asp 13 s. 200\(1\)\(b\)](#)