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## SCHEDULES

### SCHEDULE 2

#### CONTROL OF SEX SHOPS

##### *Disposal of applications for licences*

- 9 (1) Where an application for the grant or renewal of a licence under this Schedule has been made to a [<sup>F1</sup>local authority] they shall, in accordance with this paragraph—
- (a) grant or renew the licence <sup>F2</sup>...;
  - <sup>F3</sup>(b) .....
  - (c) refuse to grant or renew the licence.
- <sup>F4</sup>(1A) In granting or renewing a licence under sub-paragraph (1)(a), a local authority may (either or both)—
- (a) disapply or vary any standard conditions,
  - (b) impose conditions in addition to any mandatory or standard conditions to which the licence is subject.]
- (2) [<sup>F5</sup>Subject to [<sup>F6</sup>sub-paragraphs (2ZA) and] (2A)] the conditions referred to in sub-paragraph [<sup>F7</sup>(1A)(b)] above shall be such reasonable conditions as the [<sup>F1</sup>local authority] think fit and, without prejudice to that generality, may include conditions regulating—
- (a) the hours of opening and closing of sex shops;
  - (b) displays or advertisements on or in [<sup>F8</sup>or otherwise connected with] such shops;
  - (c) the visibility of the interior of sex shops to passers by.
- <sup>F9</sup>(2ZA) A variation made under sub-paragraph (1A)(a) or a condition imposed under sub-paragraph (1A)(b) has no effect in so far as it is inconsistent with any mandatory condition to which the licence is subject.]
- <sup>F10</sup>(2A) The conditions referred to in sub-paragraph [<sup>F11</sup>(1A)(b)] above shall not relate to any matter in relation to which requirements or prohibitions are or could be imposed by virtue of Part 3 of the Fire (Scotland) Act 2005 (asp 5).]
- (3) A licence under this Schedule shall not be granted—
- (a) to a person under the age of 18;
  - (b) to a person who is for the time being disqualified under paragraph 13(10) or 19(5) below;
  - (c) to a person other than a natural person if any director of it or partner in it or any other person responsible for its management is disqualified under paragraph 13(10) or 19(5) below;
  - (f) to a person who has been convicted of an offence under paragraphs 19 to 21 below;

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- (e) to a person who is not resident in [<sup>F12</sup>the United Kingdom] or was not so resident throughout the period of six months immediately preceding the date when the application was made;
  - (f) to a body corporate which is not incorporated in [<sup>F13</sup>the United Kingdom];
  - (g) to a person who has, within the period of 12 months immediately preceding the date when the application was made, been refused by the same [<sup>F1</sup>local authority the grant or renewal of a licence under this Schedule for the premises, vehicle, vessel or stall in respect of which the application is made, unless the refusal has been reversed on appeal; or
  - (h) to a person other than a natural person if any director of it or partner in it or any other person responsible for its management has, within that period, been refused by the same [<sup>F1</sup>local authority] the grant or renewal of such a licence, unless the refusal has been reversed on appeal.
- (4) But without prejudice to sub-paragraph (3) above, the [<sup>F1</sup>local authority] shall refuse an application for the grant or renewal of a licence if, in their opinion, one or more of the grounds specified in sub-paragraph (5) below apply.
- (5) The grounds mentioned in sub-paragraph (4) above are—
- (a) that the applicant or, where the applicant is a person other than a natural person, any director of it or any partner in it or any person responsible for its management, 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 or renewed, 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 or renewal of such a licence if he made the application himself;
  - (c) that the number of sex shops in the relevant locality at the time the application is made is equal to or exceeds the number which the [<sup>F1</sup>local 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.
- (6) Nil may be an appropriate number for the purposes of sub-paragraph (5)(c) above.
- (7) 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 shop.]

#### Textual Amendments

**F1** Words in Sch. 2 para. 9(1)(2)(3)(g)(h)(4)(5) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 129(22)(c)**; S.I. 1996/323, **art. 4(1)(c)**

**F2** Word in Sch. 2 para. 9(1)(a) repealed (1.11.2016) by **Air Weapons and Licensing (Scotland) Act 2015** (asp 10), **ss. 80(3)(a)(i), 88(2)**; S.S.I. 2016/307, **art. 2, sch.**

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- F3** Sch. 2 para. 9(1)(b) repealed (1.11.2016) by Air Weapons and Licensing (Scotland) Act 2015 (asp 10), **ss. 80(3)(a)(ii)**, 88(2); S.S.I. 2016/307, art. 2, sch.
- F4** Sch. 2 para. 9(1A) inserted (1.11.2016) by Air Weapons and Licensing (Scotland) Act 2015 (asp 10), **ss. 80(3)(b)**, 88(2); S.S.I. 2016/307, art. 2, sch.
- F5** Words in Sch. 2 para. 9(2) 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)(b)(i)**
- F6** Words in Sch. 2 para. 9(2) substituted (1.11.2016) by Air Weapons and Licensing (Scotland) Act 2015 (asp 10), **ss. 80(3)(c)(i)**, 88(2); S.S.I. 2016/307, art. 2, sch.
- F7** Word in Sch. 2 para. 9(2) substituted (1.11.2016) by Air Weapons and Licensing (Scotland) Act 2015 (asp 10), **ss. 80(3)(c)(ii)**, 88(2); S.S.I. 2016/307, art. 2, sch.
- F8** Words in Sch. 2 para. 9(2)(b) inserted (1.11.2016) by Air Weapons and Licensing (Scotland) Act 2015 (asp 10), **ss. 81**, 88(2); S.S.I. 2016/307, art. 2, sch.
- F9** Sch. 2 para. 9(2ZA) inserted (1.11.2016) by Air Weapons and Licensing (Scotland) Act 2015 (asp 10), **ss. 80(3)(d)**, 88(2); S.S.I. 2016/307, art. 2, sch.
- F10** Sch. 2 para. 9(2A) 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)(b)(ii)**
- F11** Word in Sch. 2 para. 9(2A) substituted (1.11.2016) by Air Weapons and Licensing (Scotland) Act 2015 (asp 10), **ss. 80(3)(e)**, 88(2); S.S.I. 2016/307, art. 2, sch.
- F12** Words in Sch. 2 para. 9(3)(e) substituted (31.12.2020) by The Licensing (Amendment) (EU Exit) (Scotland) Regulations 2019 (S.S.I. 2019/6), regs. 1, **2(2)** (with reg. 7) (as amended by S.S.I. 2020/339, regs. 1(2), 20); 2020 c. 1, Sch. 5 para. 1(1)
- F13** Words in Sch. 2 para. 9(3)(f) substituted (31.12.2020) by The Licensing (Amendment) (EU Exit) (Scotland) Regulations 2019 (S.S.I. 2019/6), regs. 1, **2(2)** (with reg. 7) (as amended by S.S.I. 2020/339, regs. 1(2), 20); 2020 c. 1, Sch. 5 para. 1(1)

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