

Status: Point in time view as at 22/03/2012.

Changes to legislation: Licensing Act 2003, Part 3 is up to date with all changes known to be in force on or before 05 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 8

TRANSITIONAL PROVISION ETC.

PART 3

PERSONAL LICENCES

Introductory

- 23 (1) Paragraphs 24 to 27 apply where—
- (a) during the transitional period, the holder of a justices' licence applies to the relevant licensing authority for the grant of a personal licence under section 117,
 - (b) the application is accompanied by the documents mentioned in subparagraph (3), and
 - (c) the applicant gives a copy of the application to the chief officer of police for the relevant licensing authority's area within 48 hours from the time the application is made.
- (2) In this paragraph “transitional period” means such period (of not less than six months) as may be specified for the purposes of this Part.
- (3) The documents are—
- (a) the justices' licence (or a certified copy of that licence),
 - (b) a photograph of the applicant in the specified form which is endorsed, by a person of a specified description, with a statement verifying the likeness of the photograph to the applicant, and
 - (c) where the applicant has been convicted of any relevant offence or foreign offence on or after the relevant date, a statement giving details of the offence.
- (4) In this paragraph any reference to a certified copy of a justices' licence is to a copy of that licence certified to be a true copy—
- (a) by the [^{F1}designated officer for] the licensing justices for the licensing district concerned,
 - (b) by a solicitor or notary, or
 - (c) by a person of a specified description.
- (5) A document which purports to be a certified copy of a justices' licence is to be taken to be such a copy, unless the contrary is shown.

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Textual Amendments

- F1** Words in Sch. 8 para. 23(4)(a) substituted (1.4.2005) by The Courts Act 2003 (Consequential Provisions) Order 2005 (S.I. 2005/886), art. 2, Sch. para. 94

Commencement Information

- II** Sch. 8 para. 23(2)(3)(b)(4)(c) in force at 16.12.2003 by S.I. 2003/3222, art. 2, Sch.; Sch. 8 para. 23 otherwise in force at 7.2.2005 by S.I. 2004/2360, art. 2, Sch.

Section 120 disappplied

- 24 Section 120 (determination of application for grant) does not apply in relation to the application.

Police objections

- 25 (1) Sub-paragraph (2) applies where—
- (a) the applicant has been convicted of any relevant offences or foreign offences on or after the relevant date, and
 - (b) having regard to—
 - (i) any conviction of the applicant for a relevant offence, and
 - (ii) any conviction of his for a foreign offence which the chief officer of police considers to be comparable to a relevant offence,
 whether occurring before or after the relevant date, the chief officer of police is satisfied that the exceptional circumstances of the case are such that granting the application would undermine the crime prevention objective.
- (2) The chief officer of police must give a notice stating the reasons why he is so satisfied (an “objection notice”)—
- (a) to the relevant licensing authority, and
 - (b) to the applicant.
- (3) The objection notice must be given no later than 28 days after the day on which the chief officer of police receives a copy of the application in accordance with paragraph 23(1)(c).
- (4) For the purposes of this paragraph—
- (a) “relevant offence” and “foreign offence” have the meaning given in section 113, and
 - (b) section 114 (spent convictions) applies for the purposes of this paragraph as it applies for the purposes of section 120.

Determination of application

- 26 (1) The relevant licensing authority must grant the application if—
- (a) it is satisfied that the applicant holds a justices' licence, and
 - (b) no objection notice has been given within the period mentioned in paragraph 25(3) or any notice so given has been withdrawn.
- (2) Where the authority is not satisfied that the applicant holds a justices' licence, it must reject the application.

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- (3) Where the authority is so satisfied, but sub-paragraph (1)(b) does not apply, it—
 - (a) must hold a hearing to consider the objection notice, and
 - (b) having regard to the notice, must—
 - (i) reject the application if it considers it necessary for the promotion of the crime prevention objective to do so, and
 - (ii) grant the application in any other case.
- (4) If the authority fails to determine the application within the period of three months beginning with the day on which it receives it, then, the application is to be treated as granted by the authority under this paragraph.
- (5) Section 10 applies as if the relevant licensing authority's functions under sub-paragraph (3) were included in the list of functions in subsection (4) of that section (functions which cannot be delegated to an officer of the licensing authority).
- (6) In the application of section 122 (notification of determinations) to a determination under this paragraph, the references to an objection notice are to be read as references to an objection notice within the meaning of paragraph 25(2).

Appeals

- 27 (1) Where a licensing authority rejects an application under paragraph 26, the applicant may appeal against that decision.
- (2) Where a licensing authority grants an application for a personal licence under paragraph 26(3), the chief officer of police who gave the objection notice may appeal against that decision.
- (3) Section 181 and paragraph 17(6) and (7) of Schedule 5 (general provision about appeals relating to personal licences) apply in relation to appeals under this paragraph as they apply in relation to appeals under paragraph 17 of that Schedule.
- (4) Paragraph 17(8) of that Schedule applies in relation to an appeal under sub-paragraph (2) above.

Interpretation of Part 3

- 28 For the purposes of this Part—
 - “relevant date”, in relation to the holder of a justices' licence, means—
 - (a) the date when the licence was granted, or
 - (b) where it has been renewed, the last date when it was renewed, or
 - (c) where it has been transferred to the holder and has not been renewed since the transfer, the date when it was transferred; and
 - “relevant licensing authority”, in relation to an application for a personal licence under section 117, means the authority to which the application is made in accordance with that section.

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