

Subject: Adoption of amended Schedule 3,
Local Government (Miscellaneous
Provisions) Act 1982

Status: For Publication

Report to: Council

Date: 14th October 2010

Report of: Director of Business

Portfolio

Holder: Environmental Services

Key Decision: No – Council decision

Forward Plan General Exception Special Urgency

1. PURPOSE OF REPORT

1.1 To adopt Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 as amended by the Policing and Crime Act 2009 in order that the Licensing Authority is able to regulate sexual entertainment venues.

2. CORPORATE PRIORITIES

2.1 The matters discussed in this report impact directly on the following corporate priorities and associated corporate objective/s.

- Delivering Quality Services to Customers (Customers, Improvement)
- Promoting Rossendale as a cracking place to live and visit (Economy)

3. RISK ASSESSMENT IMPLICATIONS

3.1 There are no specific risk issues for members to consider arising from this report.

4. BACKGROUND AND OPTIONS

4.1 The increase nationally in the number of lap dancing clubs since the implementation of the Licensing Act 2003 has become a concern for many local communities. Currently any representations made against premises licence applications for venues providing lap dancing and similar entertainment can only be based on the four licensing objectives, namely:

- The prevention of crime and disorder;

- Public safety;
- The prevention of public nuisance
- The protection of children from harm

4.2 As a result, licensing authorities could not consider the objections of local people and businesses that were based on matters outside the scope of the four objectives noted above, for example, such as whether a lap dancing club would be appropriate given the character and locality of the area in which it was proposed to be situated.

4.3 The government has responded to calls for further controls to be introduced specific to lap dancing clubs and similar premises by introducing legislation through the Policing and Crime Act 2009 to reclassify such venues as a new 'Sexual Entertainment Venue' under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982. (LGMPA 1982)

4.4 Appendix A details the amendments to Schedule 3 of the 1982 Act and Appendix B details Schedule 3 of LGMPA 1982.

4.5 Legislative Proposals

4.6 As detailed above Section 26 of the Policing and Crime Act 2009 introduces a new category of 'Sex Establishment' under Schedule 3 to the 1982 Act called a 'Sexual Entertainment Venue' which is defined as:-

'any premises at which Relevant Entertainment is provided before a live audience for financial gain of the organiser or the entertainer'.

4.7 This new category covers venues that provide 'Relevant Entertainment' which is defined as:-

'any live performance or any live display of nudity which is of such a nature that, ignoring financial gain, it must be reasonably assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means)'.

4.8 Such venues will require a Sex Establishment Licence. However, there is an exemption for premises which provide such entertainment infrequently (see Appendix A new paragraph 2A (3) (b) to be inserted into Schedule 3 to the 1982 Act) and, even if premises do qualify as a Sexual Entertainment Venue, the local authority still has the discretion to waive the requirement for a licence.

4.9 In summary the amendments to Schedule 3 to the 1982 Act will, in particular;

- allow local people to oppose an application for a Sex Establishment licence if they have legitimate concerns that a Sexual Entertainment Venue would be inappropriate given the character of an area, for example, if the area was primarily a residential area.
- require licence's to be renewed at least annually, at which point local people will have the opportunity to raise objections (if any), with their local authority.

- allow a local authority to reject a licence application if they believe that to grant a licence for a Sexual Entertainment Venue (including a lap dancing club) would be inappropriate given the character of a particular area.
- allow a local authority to set a limit on the number of Sexual Entertainment Venues that they think is appropriate for a particular area.
- allow a local authority to impose a wider range of conditions on the licences of Sexual Entertainment Venues than they are currently able to under the Licensing Act 2003.

4.10 These new legislative provisions took effect on 6th April 2010.

4.11 This Council originally adopted the previous Schedule 3 on the 26th May 2004 with the adoption coming into effect on the 1st July 2004. The amended Schedule 3 will now have to be re-adopted if it is to have effect in the Borough of Rossendale.

4.12 There is a 'Transitional Period' for the implementation and application process for new 'Sexual Entertainment Venues'.

4.13 Any operator – new or existing - who wishes to provide 'Relevant Entertainment 'at the end of the transitional period ' will be required to apply for a Sex Establishment licence in the manner set out in Schedule 3 to the 1982 Act.

4.14 Existing operators will be allowed to continue to provide 'Relevant Entertainment 'under their existing permission without interruption for the duration of the transitional period or until their application for a Sex Establishment licence has been determined, whichever is the later.

4.15 The transitional period will start on the date the amendments to Schedule 3 to the 1982 Act comes into force in the relevant local authority area (the 1st appointed day). It will last for 12 months.

4.16 For 6 months following the 1st appointed day, applicants will be able to submit applications, all of which will be considered together by the local authority at the end of the period. In effect all current operators apply for a new type of licence and all applications get decided together at the end i.e. not first come first granted basis

4.17 Applications received after the first 6 months (the 2nd appointed day) will be considered after applications received before the 2nd appointed day have been determined.

4.18 Licences granted for Sexual Entertainment Venues will not take effect until the conclusion of the 12 month transitional period (the 3rd appointed day).

4.19 Any pre-existing operator who has failed to obtain a licence after the third appointed day will not be permitted to provide Relevant Entertainment unless they have an application submitted..

- 4.20 The Government has decided, having listened to views from previous consultations, that existing operators will not be given 'Grandfather Rights' and will have to apply for a new type of licence.
- 4.21 With regards to Article 1, Protocol 1 of the Human Rights Act, further guidance will be provided to local authorities to ensure they exercise their powers in accordance with Convention rights before the provisions are commenced.
- 4.22 Further reports will be submitted to the Licensing Committee in relation to the adoption of the provisions under the 1982 Act, fees, standard terms and conditions, application forms and Policy.

COMMENTS FROM STATUTORY OFFICERS:

5. SECTION 151 OFFICER

- 5.1 There are no material financial implications.

6. MONITORING OFFICER

- 6.1 The Council must make a decision based on all relevant information and following consideration of all relevant Council policies

7. HEAD OF PEOPLE AND POLICY (ON BEHALF OF THE HEAD OF PAID SERVICE)

- 7.1 There are no specific human resources implications.

8. CONCLUSION

- 8.1 Whilst at this time there are no premises within the Borough to which this legislation applies, the Council would be unable to regulate under this Act unless it adopts the amended Schedule.

9. RECOMMENDATION(S)

- 9.1 That Council resolves to adopt Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by the Policing and Crime Act 2009.
- 9.2 That an implementation date be set six weeks from the date the resolution is passed in order that the necessary advertisements may be placed.

10. CONSULTATION CARRIED OUT

- 10.1 Licensing Committee and Policy Overview and Scrutiny Committee.

The Licensing Committee made the following resolution:

- That the Licensing Committee recommend Council to adopt Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by the

Policing and Crime Act 2009 and also recommend that an implementation date be set six weeks from the date the resolution is passed in order that the necessary advertisements may be placed.

The Policy Overview and Scrutiny Committee made the following resolution:

- That the Policy Overview & Scrutiny Committee resolves to recommend Council adopt Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by the Policing and Crime Act 2009.
- That an implementation date be set six weeks from the date the resolution is passed in order that the necessary advertisements may be placed.

11. COMMUNITY IMPACT ASSESSMENT

Is a Community Impact Assessment required No
 Is a Community Impact Assessment attached No

12. BIODIVERSITY IMPACT ASSESSMENT

Is a Biodiversity Impact Assessment required No
 Is a Biodiversity Impact Assessment attached No

Contact Officer	
Name	Tracy Brzozowski
Position	Licensing and Planning Enforcement Manager
Service / Team	Business Directorate
Telephone	01706 238602
Email address	tracybrzozowski@rossendalebc.gov.uk

Appendices	
Document	Appendix Number
Extract from the Policing and Crime Act 2009 relating the sex establishments	Appendix A
Extract from Schedule 3 Local Government (Miscellaneous Provisions) Act 1982.	Appendix B

Sex establishments

27 Regulation of lap dancing and other sexual entertainment venues etc

- (1) Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 (c. 30) (control of sex establishments) is amended as follows.
- (2) In paragraph 2 (meaning of "sex establishment") after "means a" insert "sexual entertainment venue,".
- (3) After paragraph 2 insert –

"Meaning of "sexual entertainment venue"

- 2A (1) In this Schedule "sexual entertainment venue" means any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer.
- (2) In this paragraph "relevant entertainment" means –
 - (a) any live performance; or
 - (b) any live display of nudity;which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means).
- (3) The following are not sexual entertainment venues for the purposes of this Schedule –
 - (a) sex cinemas and sex shops;
 - (b) premises at which the provision of relevant entertainment as mentioned in sub-paragraph (1) is such that, at the time in question and including any relevant entertainment which is being so provided at that time –

- (i) there have not been more than eleven occasions on which relevant entertainment has been so provided which fall (wholly or partly) within the period of 12 months ending with that time;
 - (ii) no such occasion has lasted for more than 24 hours; and
 - (iii) no such occasion has begun within the period of one month beginning with the end of any previous occasion on which relevant entertainment has been so provided (whether or not that previous occasion falls within the 12 month period mentioned in sub-paragraph (i));
 - (c) premises specified or described in an order made by the relevant national authority.
- (4) The relevant national authority may by order amend or repeal sub-paragraph (3)(b).
- (5) But no order under sub-paragraph (4) may –
- (a) increase the number or length of occasions in any period on which sub-paragraph (3)(b) as originally enacted would permit relevant entertainment to be provided; or
 - (b) provide for shorter intervals between such occasions.
- (6) The relevant national authority may by order provide for descriptions of performances, or of displays of nudity, which are not to be treated as relevant entertainment for the purposes of this Schedule.
- (7) Any power of the relevant national authority to make an order under this paragraph –
- (a) is exercisable by statutory instrument;
 - (b) may be exercised so as to make different provision for different cases or descriptions of case or for different purposes; and
 - (c) includes power to make supplementary, incidental, consequential, transitional, transitory or saving provision.
- (8) A statutory instrument containing an order under sub-paragraph (4) may not be made by the Secretary of State unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (9) A statutory instrument containing an order made under sub-paragraph (3)(c) or (6) by the Secretary of State is subject to annulment in pursuance of a resolution of either House of Parliament.
- (10) A statutory instrument containing an order under sub-paragraph (4) may not be made by the Welsh Ministers unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.
- (11) A statutory instrument containing an order made under sub-paragraph (3)(c) or (6) by the Welsh Ministers is subject to annulment in pursuance of a resolution of the National Assembly for Wales.

- (12) For the purposes of this paragraph relevant entertainment is provided if, and only if, it is provided, or permitted to be provided, by or on behalf of the organiser.
- (13) For the purposes of this Schedule references to the use of any premises as a sexual entertainment venue are to be read as references to their use by the organiser.
- (14) In this paragraph—
 “audience” includes an audience of one;
 “display of nudity” means—
 (a) in the case of a woman, exposure of her nipples, pubic area, genitals or anus; and
 (b) in the case of a man, exposure of his pubic area, genitals or anus;
 “the organiser”, in relation to the provision of relevant entertainment at premises, means any person who is responsible for the organisation or management of—
 (a) the relevant entertainment; or
 (b) the premises;
 “premises” includes any vessel, vehicle or stall but does not include any private dwelling to which the public is not admitted;
 “relevant national authority” means—
 (a) in relation to England, the Secretary of State; and
 (b) in relation to Wales, the Welsh Ministers;
 and for the purposes of sub-paragraphs (1) and (2) it does not matter whether the financial gain arises directly or indirectly from the performance or display of nudity.”
- (4) In paragraph 9(1) (duration of licence) after “paragraph 16” insert “or 27A below”.
- (5) In paragraph 12(3) (refusal of licences) for paragraph (c) substitute—
 “(c) that the number of sex establishments, or of sex establishments of a particular kind, in the relevant locality at the time the application is determined is equal to or exceeds the number which the authority consider is appropriate for that locality;”.
- (6) In paragraph 13 (power to prescribe standard conditions)—
 (a) in sub-paragraph (2)(a) after “for” insert “sexual entertainment venues,”,
 (b) in sub-paragraph (2)(b) after “of” insert “sexual entertainment venues,”, and
 (c) in sub-paragraph (3) for paragraph (d) (as originally enacted) substitute—
 “(d) any change from one kind of sex establishment mentioned in sub-paragraph (2)(a) above to another kind of sex establishment so mentioned.”
- (7) In paragraph 19 (fees in relation to applications) after “grant,” insert “variation,”.

(8) After paragraph 25 (powers of constables and local authority officers) insert—

“25A(1) A person acting under the authority of a warrant under paragraph 25(4) may seize and remove anything found on the premises concerned that the person reasonably believes could be forfeited under sub-paragraph (4).

(2) The person who, immediately before the seizure, had custody or control of anything seized under sub-paragraph (1) may request any authorised officer of a local authority who seized it to provide a record of what was seized.

(3) The authorised officer must provide the record within a reasonable time of the request being made.

(4) The court by or before which a person is convicted of an offence under paragraph 20 or 23 of this Schedule may order anything—

(a) produced to the court; and

(b) shown to the satisfaction of the court to relate to the offence; to be forfeited and dealt with in such manner as the court may order.

(5) But the court may not order the forfeiture of anything under sub-paragraph (4) if it (whether alone or taken together with other things being forfeited which appear to the court to have been in the custody or control of the same person) is worth more than the amount of the maximum fine specified in paragraph 22(1).

(6) Sub-paragraph (7) applies if a person claiming to be the owner of, or otherwise interested in, anything that may be forfeited applies to be heard by the court.

(7) The court may not order the forfeiture unless the person has had an opportunity to show why the order should not be made.”

(9) After paragraph 27(10) (appeals) insert—

“(10A) Sub-paragraph (10) does not apply if the grounds for refusing an application for the renewal of a licence are those set out in paragraph 12(3)(c) or (d) of this Schedule.”

(10) After paragraph 27 (appeals) insert—

“Premises which are deemed sexual entertainment venues

27A (1) This paragraph applies if—

(a) premises are subject to a licence for a sexual entertainment venue; and

(b) their use would be use as such a venue but for the operation of paragraph 2A(3)(b).

(2) This Schedule applies as if—

(a) the premises were a sexual entertainment venue; and

(b) the use or business of the premises was use as, or the business of, such a venue.

(3) But the appropriate authority must cancel the licence if the holder of the licence asks them in writing to do so.

(4) In this paragraph “premises” has the same meaning as in paragraph 2A.”

(11) Schedule 3 (provisions which are transitional on this section) has effect.

SCHEDULE 3
CONTROL OF SEX ESTABLISHMENTS

Annotations:**Modifications etc. (not altering text)**

- C1** Sch. 3 applied (24.7.1996) by 1996 c. viii, s. 3(1) Sch. 3: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I.2000/2853, reg. 2(1), Sch.1
- C2** Sch. 3: power to apply certain amendments conferred by Greater London Council (General Powers) Act 1986 (c. iv), Pt. III s. 12(1) (The said power includes power to apply a para. 3A as set out in Greater London Council (General Powers) Act 1986 (c. iv) Pt. III, s. 12(4)(b) and by London Local Authorities Act 1990 (c. vii), s. 18 it is provided that in Sch. 3 of this 1982 Act, in para. 3A, proviso (ii) is repealed (with application as mentioned in s. 5 of the 1990 Act)

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 ^{M1}Obscene Publications Act 1959 or section 5 of the ^{M2}Protection of Children Act 1978; or
- (iii) in proceedings for condemnation under Schedule 3 to the ^{M3}Customs and Excise Management Act 1979 of goods which section 42 of the ^{M4}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.

Annotations:**Marginal Citations**

- M1** 1959 c. 66.
- M2** 1978 c. 37.
- M3** 1979 c. 2.
- M4** 1876 c. 36.

Meaning of "sex establishment"

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

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 [F¹section 1 of the Cinemas Act 1985], of their use for a purpose for which a licence under [F¹that section] is required; or—

[F²(b) of their use for an exhibition to which section 6 of that Act (certain non-commercial exhibitions) applies given by an exempted organisation within the meaning of section 6(6) of that Act.]

Annotations:

Amendments (Textual)

- F1** Words substituted by Cinemas Act 1985 (c. 13, SIF 45A), s. 24(1), Sch. 2 para. 16(a)
- F2** Sch. 3 para. 3(2)(b) substituted by Cinemas Act 1985 (c. 13, SIF 45A), s. 24(1), Sch. 2 para. 16(b)

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—
- (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.

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.
 - (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
 - (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.
- (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 passersby; 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—
 - (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 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 [F¹£20,000].
- (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 [F²level 3 on the standard scale].

Annotations:**Amendments (Textual)**

F1 "£20,000" substituted by S.I. 1984/447, art. 2(1), Sch. 1

F2 Words substituted by virtue of Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 46

Modifications etc. (not altering text)

C1 Sch. 3 para. 22(1): power to amend conferred by Magistrates' Courts Act 1980 (c. 43, SIF 82), s. 143(2)(b) (as added by Criminal Justice Act 1982 (c. 48, SIF 39:1), s.48(1)(b))

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 [F¹£20,000].

Annotations:**Amendments (Textual)**

F1 "£20,000" substituted by S.I. 1984/447, art. 2(1), Sch. 1

Modifications etc. (not altering text)

C1 Sch. 3 para. 23(2): power to amend conferred by Magistrates' Courts Act 1980 (c. 43, SIF 82), s. 143(2)(m) (as