



department for
**culture, media
and sport**

Gambling Act 2005

Review of Premises Licence Regulations Consultation

April 2007

Our aim is to improve the quality of life for all through cultural and sporting activities, support the pursuit of excellence, and champion the tourism, creative and leisure industries.

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Section 1: Introduction

1.1 This consultation paper concerns the regulations under the Gambling Act 2005 (the Act) which deal with aspects of the procedure for reviewing a premises licence once it has been granted.

1.2 The provisions relating to reviews of premises licences are set out in sections 197- 203 of the Act. These provide for a review to take place in two circumstances: where a responsible authority or an interested party applies to the licensing authority for the review to take place; or where a review is initiated by the licensing authority itself. Following a review the licensing authority may revoke or suspend the premises licence, or vary the conditions of the licence.

1.3 The Act provides for the Secretary of State to make regulations prescribing:

- The form and manner of an application for a review
- The requirements governing the giving and publishing of notices, both in the case of an application for a review and where the review is initiated by the licensing authority;
- The period for the making of representations by the licence holder, responsible authorities and interested parties in response to such a notice;
- The form of the notice to be given by the licensing authority setting out their decision on a review.

1.4 This consultation paper sets out the proposals of the Department for Culture, Media and Sport (the Department) for these provisions which will be contained in the Gambling Act 2005 (Premises Licences) (Review) Regulations 2007.

1.5 The proposals draw heavily on the Gambling Act 2005 (Premises Licences and Provisional Statements) Regulations 2007 (“the Premises Licences Regulations”) which were made in February 2007 following consultation with licensing authorities and others. The reason for adopting this approach is to enshrine consistency within all Gambling Act regulations concerned with the premises licensing system, and to develop a user-friendly approach which strikes a balance between industry and licensing authority needs.

1.6 Summary of proposals

The department intends to :

Prescribe the application form for the review of a premises licence

Prescribe the notices of application for the review of a premises licence

Prescribe the timescales for giving notice of applications to the public , responsible authorities, and to the premises licence holder.

These regulations will be subject to the 'negative resolution' procedure in Parliament. A draft Regulatory Impact assessment will follow in due course.

1.7 The Department welcomes comments on these proposals and the attached draft RIA. The paper will be of particular interest to: licensing authorities authorised to issue the new casino licences, faith groups, community groups, casino operators, developers and the gambling industry as a whole.

1.8 The closing date for responses is 17th July 2007. Please send your comments in writing or by email to:

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1.9 If you have any questions or complaints about the process of consultation on this paper, please contact Liz Sweet, Consultation Co-ordinator, Strategy Division, Department for Culture, Media and Sport, 2-4 Cockspur Street, London SW1Y 5DH, liz.sweet@culture.gsi.gov.uk

Section 2: Background

2.1 The Gambling Act 2005 (the Act) contains three objectives which underpin the entire legislation. These are:

- Preventing gambling from being a source of crime and disorder, being associated with crime or disorder, or being used to support crime;
- Ensuring that gambling is conducted in a fair and open way ;
- Protecting children and other vulnerable people from being harmed or exploited by gambling.

In order to achieve these criteria, the Act created a unified regulator, the Gambling Commission, to regulate all gambling in Great Britain. It also created a new licensing regime for all commercial gambling which allows greater scrutiny of the industry at several different levels. There are three types of licences under the new regime:

- i. **operating** licences (issued to gambling businesses)
- ii. **personal** licences (issued to those who are either in a senior managerial position e.g. directors or those who have an ability to affect the outcome of the gambling e.g. croupiers)
- iii. **premises** licences (issued for gambling establishments)

2.2 Operating and Personal Licences are granted by the Gambling Commission. Premises Licences are granted by the licensing authority for the area in which the premises are situated.

The paper covers the procedures for reviewing premises licence once granted. The types of premises which can have a premises licence are:

- Casinos
- Bingo establishments
- Adult Entertainment Centres
- Family Entertainment Centres
- Betting shops
- Tracks with betting facilities

2.3 The Department made the Premises Licences Regulations in February 2007. Those regulations apply to various types of application affecting premises licences and provisional statements under Part 8 of the Act. The Regulations set out the requirements governing the application (including the form of the application) and the documents which must accompany an application. The Regulations also set out the form of a premises licence and provisional statement. Licensing authorities will start taking applications for a premises licence from 21st May 2007.

A review of a premises licence is the only context in which a licensing authority can take action to revoke or suspend a premises licence, or to vary the conditions of a premises licence so that they are different from those attached to the licence when it was issued. A review can take place in two circumstances:

- where a responsible authority or an interested party applies to the licensing authority for the review to take place

- where a review is initiated by the licensing authority itself.

2.4 The Act provides for the making of representations, and where representations are made for a hearing to be held, before the licensing authority can reach a decision on a review. Those who can make representations are the licence holder, responsible authorities and interested parties.

In the Act, interested party is defined as:

- anyone who lives sufficiently close to the premises to be affected by the licensed activities
- anyone who has business interests that might be affected by the premises,
- or a representative of one or other of these groups.

Responsible authorities are defined as:

- The Gambling Commission
- The Police
- Fire and Rescue
- the Local Planning Authority
- An authority concerned with environmental protection and human health
- An authority for the protection of children
- Her Majesty's Revenue and Customs
- Any licensing authority ~~is~~ responsible for an area in which the premises is situated#

{The Act names other responsible authorities where vessels are concerned such as the navigation authority and the Waterways Board}

2.5 Interested parties and responsible authorities can also raise concerns at the point at which an application is made for a premises licence. Licensing authorities have been given guidance by the Gambling Commission on how to determine who is an interested party.

2.6 In exercising their review functions, a licensing authority must aim to permit premises to be used for gambling provided they think that doing so:

- is consistent with any relevant Gambling Commission guidance or codes of practice,
- is reasonably consistent with the three licensing objectives, and
- fits with the authority's policy statement.

Section 3: Review of a Premises Licence proposals

Application for a Review of a premises licence- process

3.1 The Act requires the Secretary of State to prescribe the form and manner of an application for a review of a premises licence. The Department proposes that there should be a single form which is to be used irrespective of the type of gambling premises (e.g. casinos, betting shops). The information to be provided should include:

- The name and address of the applicant
- The trading name used at premises
- The address of the premises
- The grounds on which a review is being sought

3.2 A draft application form is attached at **Annex A**. The form asks the applicant to distinguish themselves as either a responsible authority or an interested party, to assist the licensing authority in processing the application for review.

3.3 The section to be used for providing details of the grounds for an application for review have been left as a free text box, to allow the applicant to describe the nature of their concern and provide both the licensing authority and premises licence holder with sufficient indication of the reasons behind an application for review of a premises licence and for any suggested remedies to the situation.

3.4 As with the Premises Licences Regulations, it is proposed that these forms will be able to include the logo of the licensing authority. The form will also be made available from the DCMS website and the Gambling Commission website.

When prescribed, the application forms will be used by Scottish authorities and licensing boards

3.5 The Department does not consider it necessary to stipulate specific documents which are to accompany the application, as this could include a range of items and depends on the circumstances involved. It will be for the applicant to decide what (if any) documents to send with the application form as being relevant to the application.

Q1. Do you agree that the Department should not prescribe documents to accompany the regulations? If not, please explain your reasons.

3.6 Similarly, the Department does not consider it necessary or appropriate to specify in the application form the possible grounds for the review. The Act sets out the principles that a licensing authority should take account of when exercising its functions. These are set out in section 153 of the Act which requires licensing authorities to aim to permit the use of premises for gambling in so far as they think that doing so:

- is consistent with any relevant Gambling Commission guidance or codes of practice,
- is reasonably consistent with the three licensing objectives, and
- fits with the authority's policy statement.

These principles apply equally to the licensing authority's decision on a review and will therefore need to be taken into account by applicants in forming their grounds.

Q2. Do you agree that the Department should not specify the grounds on which a review can be sought in the application form? If not, please explain your reasons.

Notice of Application.

3.7 The Department proposes, under section 197(3)(a) and (b), to oblige applicants give notice in writing of their application for a review to the premises licence holder and all responsible authorities. We also propose to prescribe the form of the notice and to model it on the notice required by the Premises Licences Regulations to be used for premises licence applications. This is to ensure consistency for the end user. A proposed form for the notice is included with this consultation paper at **Annex B and C**. The Department is proposing that notice must be given within 7 days of making the application. Failure to do so will halt the application process until notice is received in the prescribed manner by all parties.

3.8 We are proposing that there should be a 28 day period for making representations starting on the seventh day after the date on which the application is made. The Department has allowed more time than under the Premises Licence regulations to ensure that the Premises Licence holder and the licensing authority have enough time to consider the application and prepare for the next stages.

Q4. Do you agree with the proposed timescales for notices and submissions for representations this sufficient time for representations to be made?

3.9 The Department also proposes to make provision under section 197(4) to require the licensing authority to publish notice of the application for a review of a premises licence by a responsible authority or an interested party by:

- Fixing a notice outside the premises, within 7 days of the application being made, in such a place where it can be conveniently read by members of the public. The notice is to remain for a period of 28 days.
- Publishing the notice in a local newspaper or the local authority website. The requirement will be [to publish notice at least once in the 10 day period, within 7 days of the application being made.]

3.10 Both these requirements reflect what is required under the Premises Licences Regulations, but allow a little more time for licensing authorities to prepare. Unlike the Premises Licence process, the requirement to publish notices falls to the licensing authority and therefore the Department considers it prudent to allow the authority more time. The Department intends to prescribe the form of the notice (see **Annex C**). The intention is again to model the notice on the form prescribed in the Premises Licences Regulations.

Section 197(6) requires each of the different types of notice to specify the period of time within which representations may be made to the licensing authority. As under the Premises Licences

Reviews Initiated by a licensing authority

3.11 The Act also gives licensing authorities the power to initiate a review of a premises licence themselves. A licensing authority may only carry out a review relating to specific premises where:

- the authority suspects that the premises may have been used in a way that breaches a licence condition; or
- the authority thinks that for any other reason a review is appropriate (including where a complaint has been made).

3.13 Where a licensing authority initiates a review of a specific premises licence, the authority must;

- give notice in writing of its intention to hold the review to the licensee
- publish notice of its intention to hold the review.

The Act does not require licensing authorities to give notice to other responsible authorities.

3.14 The Department intends to impose similar requirements about the giving and publication of notices as apply in the case of applications for review. This means that:

- The regulations will specify the form of notice to be given by a licensing authority to the licence holder. A proposed form for the notice is included with this document at **Annex D**.
- The regulations will also specify the form of the notice which is to be published by the licensing authority indicating that it intends to hold the review. Again proposed form for the notice is included with this document at **Annex E**.

Q5. Do you agree that the form of the notice should be prescribed in each case?

Q6. Do you have any comments on the proposed form of notice for licensing authorities (Annex D and E)?

3.15 The manner of publication will be the same as in the case of an application for a review. The period for making representations will again be set at 28 days, but in this case with the period starting on the day on which notice is given to the licensee. The Department is proposing that notice should be published in a local paper or on their website, as well as outside the premises to allow interested parties information on their local area.

3.16 We are proposing to provide that, in the case of a notice published in a local newspaper, the notice must be published at least once within a 10 day period starting on the day when notice is given to the licensee. Where a notice is displayed outside the premises or is published on the licensing authority's website, it must be published for a period of 28 days starting on the day on which notice is given to the licensee.

Q7. Do you agree that the licensing authority should be obliged to publish notice both outside the premises and in a local paper or their own website? Should licensing authorities be obliged to use all three formats?

Action on an application for a review

3.16 An application for a review can be rejected by a licensing authority if they consider the review has been sought on grounds which are:

- Not relevant to the principles to be applied under section 153 of the Act

- Frivolous or vexatious
- Will not lead to the authority wanting to revoke or vary the licence, or amend the conditions of the licence
- Substantially the same as those raised on an earlier application
- Substantially the same as representations made when the premises licence was being applied for, or an application was made to vary the licence.

The Department has no powers to prescribe the form of the notice of rejection of an application for a review, and therefore is not proposing to do so.

Conduct of a review

3.17 Where the application for a review is successful, the licensing authority is required to carry out a review in accordance with section 201 of the Act. Section 201 provides that the purpose of a review is to consider whether the licence should be revoked or suspended, or whether the conditions of the licence should be varied. In conducting a review, the licensing authority must hold a hearing unless the applicant and each person making representations agree to the review taking place without a hearing. The only exception to this is if the licensing authority think that each representation made about the review is frivolous, vexatious or will not affect the review.

Action and determination

3.18 As a result of a review, the licensing authority may do any of the following things:

- Revoke the licence
- Suspend the licence for a period up to three months
- Vary the conditions of the licence

The licensing authority must give notice of their decision and specify the date on which any of the above will take effect. The notice must be given to the licensee, the applicant, the Commission, relevant police representative, Her Majesty's Customs and Excise and any person who has made representations.

The Secretary of State is required under section 203(2) of the Act to prescribe the form of the notice setting out the licensing authority's decision on a review. The proposed form of the notice is attached at **Annex F**. The notice must include the authority's reasons for their decision, and this is reflected in the form of the notice.

The Department has no power to prescribe a time limit within which the notice of the decision on a review must be provided

Q8. Does the proposed form of the notice of a decision on a review include all the matters it should contain? If not, what other matters should it cover?

Section 4: Consultation Questions

Q1. Do you have any comments on the proposed application form for a review of a premises licence?

Q2. Do you agree that the Department should not prescribe documents to accompany the regulations? If not, please explain your reasons.

Q3. Do you agree that the Department should not specify the grounds on which a review can be sought in the application form? If not, please explain your reasons.

Q4. Do you agree with the proposed timescales for notices and submissions for representations this sufficient time for representations to be made?

Q5. Do you agree that the form of the notice should be prescribed in each case?

Q6. Do you have any comments on the proposed form of notice for licensing authorities (Annex D and E)?

Q7. Do you agree that the licensing authority should be obliged to publish notice both outside the premises and in a local paper or their own website? Should licensing authorities be obliged to use all three formats?

Q8. Does the proposed form of the notice of a decision on a review include all the matters it should contain? If not, what other matters should it cover?