

THE GAMBLING ACT 2005 (COMMENCEMENT NO. [] AND TRANSITIONAL PROVISIONS) ORDER 2006

EXPLANATORY NOTES FOR THE DRAFT ORDER PUBLISHED BY DCMS ON [] MARCH 2006

Introduction

1. The draft Order is intended to implement the arrangements set out in the DCMS's paper entitled "Gambling Act 2005 – Transitional Arrangements" ([] February 2006). That paper sets out the Government's proposals for the commencement and implementation of the Gambling Act 2005. It explains how the Government proposes to move from the existing regulatory framework to the system established by the 2005 Act.
2. The draft Order contains the commencement provisions which are necessary to allow regulation of gambling under the 2005 Act to begin in full on 1 September 2007. It allows for:
 - advance applications for operating and premises licences to be made from 1 January 2007;
 - advance applications to licensing authorities for premises licences, family entertainment centre gaming machine permits, and prize gaming permits to be made from 31 January 2007;
 - advance applications for licensed premises gaming machine permits and club gaming and machine permits to be made from 1 June 2007.
3. It provides for substantially all of the remainder of the 2005 Act to come into force on 1 September 2007. At that point, the repeals of the existing gambling legislation will take effect. The existing legislation will then only remain in force to the extent necessary to allow applications which are outstanding on 1 September 2007 to be finally determined.
4. The draft Order contains detailed transitional provisions. These are intended to provide the necessary mechanisms for:
 - bringing an end to the process of making applications under the existing legislation;
 - enabling certain permissions which expire in the 12 month period leading up to 1 September 2007 to be renewed automatically; and
 - ensuring that existing operators are able to continue operating without interruption on and after 1 September 2007.

The transitional provisions also set out the basis on which an operator will obtain his automatic right to operate under the 2005 Act, where the Government has given a commitment to confer grandfather rights.

5. The draft Order, as with the 2005 Act itself, applies to the whole of Great Britain.

6. A detailed description of each of the commencement and transitional provisions contained in the draft Order is given below.

Article 1: Citation, commencement and interpretation

7. This article specifies the name of the draft Order and its coming into force date. The instrument is expected to come into force on 1 July 2006. Article 1 also contains definitions of expressions used in the Order.

Article 2: Commencement of provisions of the Gambling Act 2005

8. This article provides for the commencement of provisions of the 2005 Act.
9. Paragraph (1) provides for the provisions listed in Schedule 1 to come into force on 1 January 2007. The provisions are those required to enable advance applications for operating and personal licences to be made from that date.
10. Paragraph (2) provides for the provisions listed in Schedule 2 to come into force on 31 January 2007. The provisions are those required to enable advance applications to be made to licensing authorities for most types of premises licences and for provisional statements. Excluded are applications for non-converted casino premises licences (ie for one of the 17 new regional, large and small casinos). The provisions in Schedule 2 also include those which enable advance applications to be made for family entertainment gaming machine permits and the prize gaming permits.
11. Paragraph (3) provides for the provisions listed in Schedule 3 to come into force on 1 June 2007. The provisions are those in Part 8 of the 2005 Act in so far as they relate to applications for non-converted casino premises licences and provisional statements for casinos. Since the Casino Advisory Panel is not expected to make its recommendations to the Secretary of State until December 2006, it is considered unlikely that the order specifying the areas for the 1 regional, 8 large and 8 small casinos will not be made until April or May 2007. The 1 June 2007 date has therefore been chosen to complement this likely timetable.
12. Also included in Schedule 3 are the provisions required to enable advance applications to be made for licensed premises gaming machine permits and club gaming and machine permits. A later date has been chosen for these permits because applications will continue to be allowed under the existing legislation until 31 August 2007. It is expected that advance applications will only be made by those whose permission under the existing legislation is due to expire in less than 3 months after 1 September 2007. In order to take advantage of the right to be granted a permit under the 2005 Act the person or organisation concerned will have to apply at least 2 months in advance of the expiry of their permission under the existing legislation. If their existing permission expires shortly after 1 September 2007, that application will have to be made before that date as an advance application.
13. Paragraph (4) provides for the 2005 Act to have effect for all remaining purposes on 1 September 2007. At this stage therefore Part 3 of the 2005 Act will come into force which makes it an offence to provide facilities for gambling without the appropriate permission under the 2005 Act. At this point also, Part 4 of the 2005 Act, which creates offences to protect children and young persons, will also come into force. The existing gambling legislation will

also generally be repealed on 1 September 2007. This is subject to articles 3 to 5 of the draft Order which allow the existing legislation to continue in force for the purposes of determining applications which have not been determined by 1 September 2007.

Article 3: Repeal of the Betting, Gaming and Lotteries Act 1963

14. This article provides for the repeal of the Betting, Gaming and Lotteries Act 1963 ("the 1963 Act") generally to come into force on 1 September 2007. However, this is subject to the provisions in paragraphs (2) to (6) which specify the purposes for which the repeal of the 1963 Act on 1 September 2007 is not to apply.
15. Paragraph (2) is intended to ensure that the repeal of the 1963 Act on 1 September 2007 does not affect those provisions relevant to the operation of the Tote and the Levy Board. These provisions are repealed by the Horserace Betting and Olympic Lottery Act 2004, although the relevant provisions of that Act have not yet been brought into force.
16. Paragraph (3) is intended to ensure that applications for the various types of permission granted under the 1963 Act do not lapse if undetermined immediately before 1 September 2007.
17. Paragraphs (4) and (5) are intended to ensure that the English and Welsh licensing committees established under paragraph 1 of Schedule 1 to the 1963 Act continue in being on and after 1 September 2007. This is necessary not only for the purposes of dealing with outstanding applications under the 1963 Act, but also for dealing with outstanding applications under the Gaming Act 1968.

Article 4: Repeal of the Gaming Act 1968

18. This article provides for the repeal of the Gaming Act 1968 ("the 1968 Act") generally to come into force on 1 September 2007. However, this is subject to the provisions in paragraphs (2) to (5) which specify the purposes for which the repeal of the 1963 Act on 1 September 2007 is not to apply.
19. Paragraph (2) is intended to ensure that applications for the various types of permission granted under the 1968 Act do not lapse if undetermined immediately before 1 September 2007.
20. Paragraph (3) ensures that, where the application is for the registration of a club or miners' welfare institute, the power under the 1968 Act to register the club or institute on such an application also continues to apply. This is so that the club or institute can be registered and therefore qualify for the right to be granted a club gaming or machine permit.
21. Paragraph (4) relates to certificates under section 27 (which section is concerned with the supply and repair of gaming machines) and to gaming machine permits under section 34 (although not ones for amusement arcades). It ensures that the power under the 1968 Act to grant such a certificate or permit also continues to apply after 1 September 2007. The transitional provisions in Schedule 4 include provision for such certificates and permits to continue to have effect on and after 1 September 2007 under the framework of the 2005 Act. As section 27 certificates and section 34 permits will in certain

circumstances continue to have effect after 1 September 2007, it is necessary to ensure that the certificate or permit can be issued, where the application for it is also granted after that date.

22. Paragraph (5)(a) is intended to ensure that an application is not treated as having been determined, where it is refused, until the applicant has had an opportunity to appeal and for that appeal to be determined. Paragraph (5)(b) is intended to ensure that, where an application for a section 34 permit is approved but for a lower number of gaming machines, the applicant still has the chance to appeal against that decision. This is important because it affects the applicant's machine entitlement when applying for a licensed premises gaming machine permit under the 2005 Act.

Article 5: Repeal of the Lotteries and Amusements Act 1976

23. This article provides for the repeal of the Lotteries and Amusements Act 1976 ("the 1976 Act") generally to come into force on 1 September 2007. However, this is subject to the provisions in paragraphs (2) to (5) which specify the purposes for which the repeal of the 1976 Act on 1 September 2007 is not to apply.
24. Paragraphs (2) and (3) are intended to ensure that societies and local authority schemes can continue to be registered under Schedules 1, 1A and 2 of the 1976 Act on and after 1 September 2007. This is only to apply however if the application for registration was made but not determined before that date.
25. Paragraph (4) applies to applications for lottery manager's certificates and permits under section 16 of the 1976 Act. It ensures that such applications do not lapse if undetermined immediately before 1 September 2007.

Article 6 and Schedule 4: Transitional Provisions

26. Article 6 provides for the transitional provisions in Schedule 4 to have effect. The provisions in Schedule 4 are divided into 10 parts:

Part 1: General. This essentially contains definitions of words and expressions used in Schedule 4.

Part 2: Transitional provisions about the grant and renewal of licences etc. under the existing legislation.

Part 3: Provisions which keep in force on and after 1 September 2007 certain certificates and permits granted under the 1968 Act. This applies in particular to permits and certificates under section 27 and gaming machine permits under section 34 (but not those for amusement arcades).

Part 4: Provisions concerning licences etc. granted under the 2005 Act before 1 September 2007. This relates to licences etc. granted on an advance application (whether by an existing or new operator).

Part 5: Provisions about advance applications for operating licences made by existing operators. This includes the provisions which ensure an existing operator can continue to operate on and after 1 September 2007 even if his application for an operating licence has not been determined by that date.

Part 6: Provisions about the conversion of licences etc. under the existing legislation into premises licences under the 2005 Act. This includes the provisions which ensure an existing premises operator can continue to operate on and 1 September 2007 even if the licensing authority has not granted the premises licence by that date.

Part 7: Provisions about the conversion of lottery registrations under the 1976 Act into operating licences or registrations under the 2005 Act.

Part 8: Provisions about the conversion of club registrations under the 1968 Act into club gaming and machine permits under the 2005 Act.

Part 9: Provisions about the conversion of permits under section 34 of the 1968 Act for amusement arcades into family entertainment centre gaming machine permits under the 2005 Act.

Part 10: Provisions about the conversion of permits under section 16 of the 1976 Act into prize gaming permits under the 2005 Act.

The remainder of these Explanatory Notes gives a description of each of the provisions in those Parts.

Schedule 4, Part 1

27. This Part contains provisions which assist in the construction and interpretation of the provisions of Schedule 4.

Paragraph 1: Interpretation

28. This paragraph contains definitions of the terms "bingo club licence" and "casino licence". The definition of "bingo club licence" is based on that in paragraph 2(2) of Schedule 2 to the 1968 Act. "Casino licence" is defined as meaning any licence under the 1968 Act other than a bingo club licence.

Paragraph 2: Meaning of "finally determined" in relation to applications for an operating licence

29. There are a number of places in Schedule 4 where a provision refers to an application for an operating licence being "finally determined". An example is paragraph 34(8) which provides that an interim operating licence granted under paragraph 32 is to cease to have effect when the advance application for an operating licence made by an existing operator is "finally determined". Paragraph 2 describes when an application for an operating licence is to be treated as having been finally determined. The provision is intended to ensure that such an application is not treated as having been finally determined until any appeal proceedings under the 2005 Act, including to the High Court or the Court of Session, have been disposed of.

Paragraph 3: Licensing authority where premises are situated in the area of more than one authority

30. There are a number of circumstances in Schedule 4 to the draft Order where functions are conferred on a licensing authority under the 2005 Act with respect to gambling on a particular type of premises, but where no application will have been made to that authority for the relevant permission. An example is clubs and miners' welfare institutes. Paragraphs 53 to 60 of Schedule 4 include transitional provisions so that a club registered under the 1968 Act can

continue to operate on and after 1 September 2007 in the period before its converted club gaming or machine permit is granted. To enable this to happen within an effective regulatory framework, provisions of Schedule 12 are effectively applied to such a club or institute during this transitional period. The effect of applying provisions of Schedule 12 is that functions are conferred on the licensing authority in whose area the relevant premises are situated.

31. Paragraph 2 is intended to ensure that in such a case, where functions are conferred on the licensing authority under the 2005 Act, but where the premises are situated in the area of more than one authority, it is clear which is the responsible authority. The paragraph provides that in those circumstances the responsible authority is the one in whose area the larger part of the premises are situated.

Schedule 4, Part 2

32. This Part includes transitional provisions relating to the grant and renewal of licences and other forms of permission under the existing gambling legislation which is to be repealed by the 2005 Act.

Paragraph 4: Restrictions on applications under the 1963 Act

33. This paragraph prevents the relevant authority from granting any applications for new permissions under the 1963 Act where the application is made on or after 28 April 2007.

Paragraph 5: Period for which licences etc. under the 1963 Act are to have effect

34. This paragraph makes provision about the period for which permissions under the 1963 Act are to have effect where granted after the date on which the Order will come into effect. This reflects what will happen to permissions granted or renewed before that date which will cease to have effect when the 1963 Act is repealed for most purposes on 1 September 2007.

Paragraph 6: Automatic grant of new track betting licences

35. This provision ensures that, where a track betting licence expires within the 12 month period ending on 30 August 2007, the holder has the right to be granted a new licence without having to make an application for the licence. The new track betting licence granted in this way will expire at the end of 31 August 2007.
36. *Sub-paragraph (3)* makes transitional provision so that the previous track betting licence is treated as continuing in force until such time as the new track betting licence is issued. *Sub-paragraph (5)* disapplies the provisions of Schedule 3 to the 1963 Act which provide for the making of an application and the payment of an application fee.
37. The draft Order does not include provision for the automatic renewal of permits and licences granted under Schedule 1 to the 1963 Act. This is because such permits and licences are renewed in accordance with the cycle specified in paragraph 29 of Schedule 1, and therefore no permits will be due for renewal in the 12 month period to 30 August 2007.

Paragraph 7: Restrictions on applications under the 1968 Act

38. This paragraph is concerned with preventing the relevant licensing authority from granting certain types of permission under the 1968 Act where the

application for the permission is either made after a specified date, or it is an application for renewal and the permission being renewed does not expire until on or after 31 August 2007.

39. *Sub-paragraph (2)* prohibits the relevant licensing authority from granting an application for a licence under the 1968 Act or an application for a section 34 permit for an amusement arcade, where the application is made on or after 28 April 2007. This mirrors the provision in paragraph 4 for permissions under the 1963 Act. The 28 April cut-off date has been specified in all those cases where the operator requires a new permission under the 2005 Act to operate from 1 September 2007 and cannot rely on a permission granted under the existing legislation.
40. *Sub-paragraph (3)* is concerned with section 34 permits for premises which are not alcohol licensed premises or an amusement arcade. It prevents the relevant authority from granting or renewing such a permit where the application is made on or after 1st July 2006 (that is the date on which the Order is expected to come into force).
41. No cut-off date is specified for any other type of permission granted under the 1968 Act. However, *sub-paragraphs (4) to (6)* do contain provisions which prevent certain permissions from being renewed where it expires on or after 31 August 2007. This applies to those 1968 Act permissions which will continue to have effect on and after 1 September 2007. These are certificates under section 27 of the 1968 Act and permits under section 34 in respect of alcohol licensed premises. It also applies to club registrations. This is because the period within which a club has to apply for a converted club gaming or machine permit depends on when the 1968 Act registration is due to expire.

Paragraph 8: Allowing applications for the grant a licence under the 1968 Act where a certificate of consent has been applied for but not obtained

42. This paragraph modifies Schedule 2 to the 1968 Act to allow applications for a licence under that Act to be made where a certificate of consent under paragraph 4 of Schedule 2 has been applied for but not obtained. This is to ensure that a person is not prevented from applying for a licence under the 1968 Act by the 28 April 2007 cut-off date because their application for a certificate of consent has not been determined in time.
43. *Sub-paragraphs (2) to (7)* set out the relevant modifications to Schedule 2 to the 1968 Act. *Sub-paragraph (3)* modifies paragraph 5(2) of Schedule 2 so that the effect of paragraph 5(2) of Schedule 2 is to require the application for a licence under the 1968 Act to be accompanied by a copy of the relevant consent application rather than the certificate of consent itself. *Sub-paragraphs (4) and (5)* ensure that the requirements under paragraphs 6 and 7 of Schedule 2 (which relate to the publication of notices by the applicant and the fixing of a hearing date) only apply once the certificate of consent is issued. *Sub-paragraph (5)* provides for the 14 day period under paragraph 6(1) for publishing a notice of the application in a newspaper to begin immediately after the date on which the certificate of consent is issued (rather than the date on which the application is made). It also modifies paragraph 7 so that it has effect as if it required the applicant to send the licensing authority a copy of the certificate of consent at the same time as they send the things referred to in sub-paragraph (1) of that paragraph. *Sub-paragraph (6)* requires the

Gambling Commission to notify the licensing authority if the application for the certificate of consent is refused. Where that happens the licensing authority are required to refuse the application for the grant of the 1968 Act licence.

Paragraph 9: Period for which licences etc. under the 1968 Act are to have effect

44. This paragraph provides for certain types of permission under the 1968 Act, when granted or renewed after the draft Order comes into force, to cease to have effect at the end of 31 August 2007. The permissions affected are licences under the Act, registrations under Part 2 or Part 3, and permits under section 34 in respect of amusement arcades.

Paragraph 10: Automatic renewal of licences under the 1968 Act

45. This paragraph ensures that, where a licence under the 1968 Act expires within the 12 month period ending on 30 August 2007, the holder has the right to have his licence renewed without having to make an application for renewal. A licence renewed in this way is to expire at the end of 31 August 2007. *Sub-paragraph (2)* ensures that the licence continues to have effect until it is renewed. *Sub-paragraph (3)* provides for the renewed licence to be subject to the same restrictions as applied to the licence before renewal.

Paragraph 11: Automatic renewal of section 34 permits for amusement arcades

46. This paragraph ensures that, where a permit under section 34 of the 1968 Act, which applies to an amusement arcade, expires within the 12 month period ending on 30 August 2007, the holder has the right to have his permit renewed without having to make an application for renewal. A permit renewed in this way is to expire at the end of 31 August 2007. *Sub-paragraph (3)* ensures that the permit continues to have effect until it is renewed.

Paragraph 12: Effect of references in the Gaming Act 1968 to the licensing authority

47. Paragraph 1 specifies the bodies which are to act as licensing authorities for the purposes of the 1968 Act. The intention is to ensure that references in the 1968 Act to the licensing authority still work on and after 1 September 2007 even where there is no longer a body responsible for the grant or renewal of such permits and licences under the 1963 Act.

Paragraph 13: Restrictions on applications under the 1976

48. This paragraph is concerned with preventing the relevant authority from granting certain types of permission under the 1976 Act where the application for the permission is made on or after 28 April 2007. The permissions concerned are registration as a lottery manager and permits under section 16.

Paragraph 14: Period for which registrations, certificates and permits under the 1976 Act are to have effect

49. This paragraph ensures that where, after the draft Order comes into force:

- A society lottery or local authority scheme is registered,
- A lottery manager's certificate is issued, or
- A section 16 permit is granted or renewed,

the registration, certificate or permit ceases to have effect at the end of 31 August 2007. This reflects what will happen to such registrations, certificates and permits where granted or renewed before that date. These will also cease

to have effect at the end of 31 August 2007 because of the repeal of the 1976 Act for most purposes on 1 September 2007.

Paragraph 15: Automatic renewal of permits under section 16 of the 1976 Act

50. This paragraph ensures that, where a permit under section 16 of the 1976 Act expires within the 12 month period ending on 30 August 2007, the holder has the right to have his permit renewed without having to make an application for renewal. A permit renewed in this way is to expire at the end of 31 August 2007. *Sub-paragraph (3)* ensures that the permit continues to have effect until it is renewed.
51. *Sub-paragraph (6)* ensures that automatic renewal under this paragraph does not apply where the appropriate authority has passed a non-renewal resolution under paragraph 2(b) of Schedule 3 to the 1976 Act, and that resolution relates to a class of premises which includes the premises to which the permit relates.

Schedule 4, Part 3

52. This Part contains provisions which enable certain permissions under the 1968 Act to continue in force on and after 1 September 2007 despite the repeal on that date of the 1968 Act for most purposes. The permissions concerned are certificates and permits under section 27 and permits under section 34 where those apply to premises other than amusement arcades.

Paragraph 16: Continuation of certificates and permits granted under section 27 of the Gaming Act 1968

53. This paragraph makes provision for the continuation in force on and after 1 September 2007 of certificates and permits under section 27 of the 1968 Act. It applies in particular to those certificates and permits which are in force immediately before 1 September 2007 or are granted on or after that date. It is necessary to make provision for the latter because applications for section 27 certificates and permits which are outstanding on 1 September 2007 will continue to be dealt with and determined after that date.
54. *Sub-paragraphs (4) and (7)* specify what the effect of a section 27 certificate and a section 27 permit will be on and after 1 September 2007. In each case it will authorise substantially the same activities as it authorised before 1 September 2007.
55. *Sub-paragraphs (5) and (6)* relate only to section 27 certificates. They provide that on and after 1 September 2007 a section 27 certificate is to be subject to any relevant operating licence conditions. This is defined in *sub-paragraph (6)* to mean any conditions specified by the Gambling Commission under section 75 of the 2005 Act in relation to gaming machine technical operating licences which apply to the activities authorised by the certificate.

Paragraph 17: Duration of section 27 certificates which have effect on and after 1 September 2007

56. This paragraph makes provision about the duration of section 27 certificates which have effect on and after 1 September 2007. The general rule is that a section 27 certificate has effect until the date on which immediately before 1 September 2007 it was due to expire under the 1968 Act. Where the certificate is one that is granted on or after 1 September 2007 it has effect for a period of 5 years beginning with the date on which it is granted.

57. *Sub-paragraph (2)* allows the duration of a section 27 certificate to be extended where the holder applies for a gaming machine technical operating licence at least 2 months before the date on which the certificate is due to expire. In such a case the certificate will continue in force until the application for the gaming machine technical operating licence is finally determined or is withdrawn.
58. *Sub-paragraphs (3) and (4)* provide for a certificate to expire early where the holder is granted a gaming machine technical operating licence before the date of expiry. In those circumstances the certificate is to expire immediately before the operating licence takes effect.

Paragraph 18: Duration of section 27 permits which have effect on and after 1 September 2007

59. This paragraph makes provision about the duration of section 27 permits which have effect on and after 1 September 2007. As with section 27 certificates, the general rule is that a section 27 permit has effect until the date on which immediately before 1 September 2007 it was due to expire under the 1968 Act. *Sub-paragraphs (2) and (3)* provide for a section 27 permit to expire early where the holder is granted a permit under section 250 of the 2005 Act before the date of expiry. In those circumstances the section 27 permit is to expire immediately before the 2005 Act permit takes effect.

Paragraph 19: Application of provisions of the 2005 Act to section 27 certificates

60. This paragraph provides for the 2005 Act to apply to section 27 certificates with the modifications specified in the following provisions of the paragraph and in paragraph 20 (application of review provisions).
61. *Sub-paragraph (2)* modifies section 33 of the 2005 Act so that subsection (1) (which makes it an offence to provide facilities for gambling) does not apply where the activity is authorised by a section 27 certificate and is carried out in compliance with any conditions attached to the certificate by virtue of the draft Order- ie any relevant operating licence conditions.
62. *Sub-paragraph (3)* similarly modifies section 243 so that subsection (1) (which makes it an offence to manufacture, supply and maintain etc. gaming machines) does not apply where the activity is authorised by a section 27 certificate and is carried out in compliance with any conditions attached to the certificate by virtue of the draft Order.

Paragraph 20: Application of review provision to section 27 certificates

63. This paragraph provides for the review provisions in sections 116 to 120 of the 2005 Act (and the associated information provision in section 122) to apply to section 27 certificates and the holders of such certificates as it applies to gaming machine technical operating licences and the holders of such licences. *Sub-paragraphs (2) to (7)* make the necessary modifications to the provisions of the 2005 Act.

Paragraph 21: Application of provisions of the 2005 Act to section 27 permits

64. This paragraph provides for the 2005 Act to apply to section 27 permits with the modifications specified in the following provisions of the paragraph. In

essence it modifies the Act so that section 27 permits are treated in the same way as permits under section 250 of the 2005 Act.

Paragraph 22: Continuation of permits under section 34 of the 1968 Act in respect of alcohol licensed premises

65. This paragraph and paragraphs 23 to 26 are concerned with permits under section 34 of the 1968 Act which apply to premises with an alcohol licence; that is, permits which are granted by the authorities mentioned in paragraphs (a) and (c) of paragraph 1 of Schedule 9 to the 1968 Act. Paragraph 22 is intended to ensure that any such permits which have effect immediately before 1 September 2007, or are granted on or after that date, are able to continue in force when the 1968 Act is repealed for most purposes on 1 September 2007. The effect of a section 34 permit on and after 1 September 2007 is to authorise the holder to make available a number of Category C or D gaming machines equal to the number of higher value AWP machines which the permit would have authorised under the 1968 Act. The expression "higher value AWP machine" is defined so as to refer to machines which comply with the conditions mentioned in subsection (5A) of section 34 of the 1968 Act- ie machines which meet the higher limits authorised by section 34.

Paragraph 23: Duration of section 34 permits in respect of alcohol licensed premises

66. This paragraph makes provision about the duration of section 34 permits in respect of alcohol licensed premises which have effect on or after 1 September 2007. As a general rule, such a permit is to have effect until whichever is the earlier of the date on which it was due to expire under the 1968 Act or 31 August 2007. This means that there is a limit of 3 years from 1 September 2007 for which such permits can have effect. This limit does not apply however where the permit is granted on or after 1 September 2007. In those circumstances the permit will have effect for a period of three years from the date of grant.

67. *Sub-paragraph (2)* deals specifically with the situation where a section 34 permit is due to expire before 1 September 2007, but the permit continues in force beyond that date (by virtue of paragraph 19 of Schedule 9 to the 1968 Act) because the appropriate authority did not determine the application for renewal by the expiry date. In those circumstances, the permit is also to have effect for a period of 3 years from the date of renewal.

68. *Sub-paragraph (3)* is intended to ensure that, where the holder of a section 34 permit has applied at least 2 months before its expiry for a licensed premises gaming machine permit under the 2005 Act, the section 34 permit does not expire before that application is determined or withdrawn.

69. *Sub-paragraphs (4) and (5)* provide for a section 34 permit to expire early where either the holder is granted a licensed premises gaming machine permit or where section 282 of the 2005 Act applies to the premises specified in the section 34 permit. Section 282 allows alcohol licensed premises to make available 2 gaming machines without having a licensed premises gaming machine permit.

Paragraph 24: Application of the 2005 Act to section 34 permits in respect of alcohol licensed premises

70. This paragraph provides for the 2005 Act to apply to section 34 permits in respect of alcohol licensed premises which have effect on or after 1 September 2007. The effect of paragraph 24 is to treat such permits as licensed premises gaming machine permits for certain specified purposes of the 2005 Act. This includes the provisions of section 283 which make licensed premises gaming machine permits subject to the condition that the holder comply with an relevant codes of practice about the location and operation of gaming machines. Certain provisions of Schedule 13 to the 2005 Act are also applied to section 34 permits as if they were licensed premises gaming machine permits. These include paragraph 16 of Schedule 13 which allows the licensing authority to cancel or vary the permit in certain circumstances and paragraphs 19 and 20 which allow the permit to be transferred to a new holder.

Paragraph 25: Application of the 2005 Act to section 34 permits in respect of alcohol licensed premises in Scotland

71. This paragraph relates specifically to Scotland and is intended to address the issues raised by the fact that, by virtue of section 283(5) of the 2005 Act, Schedule 13 does not apply in relation to Scotland. In the absence of any regulations having yet been made under section 285 of the 2005 Act, paragraph 25 provides for the provisions of Schedule 13 referred to in sub-paragraph (4) of paragraph 24 of the draft Order to apply in the case of section 34 permits issued in Scotland. It is likely that, when the relevant regulations are made under section 285, this provision will be amended so that the equivalent provisions of those regulations apply rather than the provisions of Schedule 13.

Paragraph 26: Conversion of permits under section 34 of the 1968 Act into licensed premises gaming machine permits

72. This paragraph provides for the conversion of section 34 permits in respect of alcohol licensed premises into licensed premises gaming machine permits under the 2005 Act. Provided the application for the licensed premises gaming machine permit is made at least 2 months before the expiry of the section 34 permit, paragraph 26 requires the licensing authority to grant the application. But in granting the application the licensing authority are only obliged to do so in respect a number of Category C gaming machines equal to the number of higher value AWP machines authorised by the section 34 permit.

73. *Sub-paragraphs (7) to (10)* make provision for circumstances in which the conversion rights conferred by sub-paragraphs (4) to (6) are not to apply. Where the application for the licensed premises gaming machine permit is made before 1 September 2007 the conversion rights are only to apply if the section 34 permit still has effect immediately before 1 September 2007. Irrespective of when the application is made, the conversion rights are also not to apply if, after the application is made, the section 34 permit is cancelled or forfeited under paragraph 16 or 18 of Schedule 13 to the 2005 Act. These provisions of Schedule 13 are applied to section 34 permits by paragraph 24(4) of the draft Order and will have effect in relation to the permit from 1 September 2007.

Paragraph 27: Continuation of other permits granted under section 34 of the Gaming Act 1968

74. This paragraph applies to permits under section 34 of the 1968 Act granted by the local authority or council as the appropriate authority referred to in paragraph 1(b) or (d) of Schedule 9 to the 1968 Act, but where the permit is not for an amusement arcade. The sorts of premises to which these permits apply are non-gambling unlicensed premises such as chip shops and taxi cab offices. The effect of paragraph 27 is to allow such permits to continue in force on and after 1 September 2007 either where they have effect before that date, or (in the very unlikely event that an application for such a permit is not determined by 1 September 2007) where the permit is granted on or after that date. The effect of such a permit on and after 1 September 2007 is to authorise the holder to make available a number of Category D gaming machines equal to the number of lower value AWP machines authorised by the permit under the 1968 Act.
75. *Sub-paragraph (5)* makes provision about the duration of a permit when it has effect on and after 1 September 2007. The permit is to have effect until whichever is the earlier of the date on which it was due to expire under the 1968 Act or [30 June 2009]. [Where the permit is granted on or after 1 September 2007, it is to have effect until 30 June 2009.]

Paragraph 28: Provision of information by Councils in Scotland

76. This paragraph applies in respect of those section 34 where the permit was issued in Scotland. Because the appropriate authority which granted the permit under the 1968 Act is different from the licensing authority for the purposes of the 2005 Act, paragraph 28 requires the 1968 Act authority to provide certain information to the 2005 Act authority. The information to be provided is:
- The name and address of the permit holder,
 - The address of the premises to which the permit relates,
 - The date on which the permit was granted or last renewed, and
 - The date on which the permit is due to expire.

Paragraph 29: Application of 2005 Act to non-amusement Category D gaming machine permits

77. This paragraph provides for the 2005 Act to apply to section 34 permits continuing in force on and after 1 September 2007 under paragraph 27. The effect of paragraph 28 is to treat such permits in the same way as FEC gaming machine permits for certain specified purposes of the 2005 Act. This includes in particular ensuring that an offence under sections 37 and 242 is not committed where a Category D gaming machines are made available in accordance with the permit.

Schedule 4, Part 4

Paragraph 30: Licences etc. granted under the Gambling Act 2005 before 1 September 2007

78. This paragraph ensures that where a licence or permit is issued under the 2005 Act before 1 September 2007, the licence or permit will not have effect until 1 September 2007 when regulation of gambling under that Act takes effect. The

paragraph makes consequential amendments to paragraph 17(1) of Schedule 12 to the 2005 Act which provides for club gaming or machine permits to have effect for 10 years from the date on which the permit is issued. Where such a permit is issued before 1 September 2007 it is to have effect instead for a period of 10 years from 1 September 2007.

Schedule 4, Part 5

79. This Part makes provision about advance applications for operating licences made by existing operators. In particular, it contains the provisions which ensure that existing operators who apply for an operating licence before 28 April 2007 are able to continue operating on and after 1 September 2007 even if their application has not been finally determined by that date.

Paragraph 31: Definition of existing operator

80. This paragraph defines who is to be treated as an existing operator for the purposes of different types of advance operating licence applications. In broad terms, a person falls to be treated as an existing operator if he holds the equivalent operating permission under the existing legislation or he is applying for such a permission and that application has not been withdrawn or refused.

Paragraph 32: Interim operating licences

81. The purpose of this paragraph is to ensure that where a person applies before 28 April 2007 for an operating licence in respect of which he is an existing operator, he is able to be treated from 1 September 2007 as having the relevant operating licence if the Gambling Commission fail to determine his application in time. Such an operating licence is referred to in the draft Order as an interim operating licence.

82. *Sub-paragraph (2)* ensures that the same continuation rights are also available where the advance operating licence application relates to an activity which currently does not require a permission under the existing legislation. This applies in particular to applications for:

- a betting intermediary operating licence,
- a gaming machine technical operating licence where the activity specified in the application is the manufacture of gaming machines,
- a gaming machine technical operating licence where the activity specified in the application is the installation, adaptation, maintenance or repair of gaming machines otherwise than for valuable consideration, and
- a gambling software operating licence.

83. *Sub-paragraph (5)* deals with the situation where a person is applying for an operating licence of more than one of the kinds described in section 65(2) of the 2005 Act, but he is not an existing operator in respect of all of the kinds of licence for which the application is made. Section 68 of the 2005 Act allows an operating licence to be combined in this way. Where such a multiple application is made, the continuation rights only apply to those types of operating licence for which the applicant is an existing operator. *Sub-paragraph (6)* makes similar provision for those cases falling within *sub-paragraph (2)*.

Paragraph 33: Application of continuation rights where the applicant qualifies as an existing operator because of an application under the existing legislation

84. This paragraph makes specific provision for the situation where the applicant qualifies as an existing operator because they are making an application under the existing legislation. In those circumstances the continuation rights conferred by paragraph 32 do not apply where the application under the existing legislation is withdrawn, refused or is not determined before 1st September 2007.
85. Additional conditions apply where the application under the existing legislation is not one that falls to be determined by the Gambling Commission- ie where the application is for a bookmaker's permit or a betting agency permit or for registration as a pool promoter. In those circumstances, the applicant must notify the Gambling Commission of the grant of the application under the existing legislation within a 14 day period from the date of grant. If they fail to do so, the continuation rights will lapse.

Paragraph 34: Application of the 2005 Act to interim operating licences

86. This paragraph makes provision about the application of the 2005 Act to interim operating licences.
87. *Sub-paragraph (2)* requires the Gambling Commission to specify under section 75 any conditions which are to apply to interim operating licences or interim operating licences of a particular type. Under *sub-paragraph (3)* an interim operating licence is to be subject to any conditions specified by the Gambling Commission in this way. A condition is to apply from the date on which it is published by the Gambling Commission in accordance with section 76(3). *Sub-paragraph (5)* makes it clear that conditions contained in regulations under section 78 may also apply to interim operating licences.
88. *Sub-paragraph (7)* disapplies certain provisions of the 2005 Act. These include the requirement under section 100 to pay an annual fee. *Sub-paragraph (8)* provides for an interim operating licence to cease to have effect, when the advance application made by the existing operator is finally determined.

Schedule 4, Part 6

89. This Part provides for the conversion of certain premises based permissions under the existing legislation into premises licences under the 2005 Act. It also includes provisions which allow existing premises operators to continue operating on and after 1 September 2007 even though the premises licence application has not been granted by that date.

Paragraph 35: Definition of existing premises operator

90. This paragraph defines who is to be treated as an existing premises operator for the purposes of different types of advance premises licence application. In broad terms, a person falls to be treated as an existing premises operator if he holds the equivalent permission under the existing legislation or he is applying for such a permission and that application has not been withdrawn or refused.

Paragraph 36: Conversion of existing licences etc. into premises licences

91. This paragraph makes provision for the conversion of certain premises based permissions under the existing legislation into premises licences under the 2005 Act.

92. *Sub-paragraph (1)* specifies the conditions which have to be met for conversion rights to apply. These are-
- That the premises licence application is made before 1 September 2007- ie it is an advance application for a premises licence;
 - That it is made by an existing premises operator;
 - That it relates to the same or substantially same premises as the permission under the existing legislation; and
 - That it complies with the requirements imposed by or under section 159 of the 2005 Act.
93. Where an application meets the conditions specified in sub-paragraph (1), sections 160 and 161 do not apply to the application. These are the provisions under which a requirement can be imposed to publish a notice about the application, and which allow representations to be made by interested parties or responsible authorities.
94. Where the conditions in sub-paragraph (1) are met, the licensing authority are under a duty to grant the application and to issue the premises licence. This duty applies irrespective of whether or not an operating licence has been issued to the applicant for the premises licence. However, *sub-paragraph (4)* also provides for the premises licence to lapse if the holder's application for an operating licence is rejected.
95. Although *sub-paragraph (6)* generally disapplies appeal rights, this is without prejudice to the right of the licence holder to appeal against any conditions attached to the premises licence.

Paragraph 37: Effect of revocation or cancellation of existing licence etc.

96. This paragraph makes provision about what is to happen where a person, who is applying for a premises licence as the holder of a permission under the existing legislation, has their licence or permit under the existing legislation revoked or cancelled. In these circumstances, the conversion rights conferred by paragraph 36 are to cease to apply. Where the licensing authority has already issued the premises licence in pursuance of those rights, it is to lapse on the date on which the existing licence or permit is revoked or cancelled. This then has the effect of reviving the premises licence application.
97. Where the existing licence or permit is revoked or cancelled, the premises licence application falls to be treated in the same way as in a case where the applicant is an existing operator by virtue of applying for a permission under the existing legislation, and the application under the existing legislation is refused. Specific provision for this is contained in paragraph 41.

Paragraph 38: Provisions to ensure that existing premises operators can continue to operate on and after 1st September 2007

98. This paragraph is concerned with ensuring that existing premises operators can continue to operate on and after 1st September 2007 even if the licensing authority has not issued their premises licence by that date. It does so by providing for the premises licence to be treated as if it had been issued on 1

September 2007. However, such continuation rights only apply where the operator has applied for the premises licence before 28 April 2007.

99. *Sub-paragraph (4)* makes it clear that the provisions of paragraph 38 do not exempt licensing authorities from their duty under section 164(1) of the 2005 Act. That subsection requires licensing authorities to give notice of the grant of the licence to the persons specified in paragraph (a) of that subsection which include the Gambling Commission and the chief officer of police; to issue the licence to the applicant; and to give the applicant a summary of the terms and conditions of the licence. *Sub-paragraph (5)* provides for the licensing authority to do the things required by section 164(1) as soon as practicable on or after 1 September 2007.
100. Sub-paragraph (6) provides for any conditions attached by the licensing authority not to have effect until notice of those conditions is received by the licence holder under section 164(1). Up until that time the licence will be subject to any relevant mandatory and default conditions attached to the licence under sections 167 and 168 respectively.

Paragraph 39: Provisions applying where the applicant is an existing premises operator because an application is being made under the existing legislation

101. This paragraph modifies the effect of the preceding provisions of Part 6 of the draft Order in a case where the applicant for a premises licence qualifies as an existing premises operator because he is applying for an equivalent permission under the existing legislation.
102. Where the application is one that qualifies for conversion rights, *sub-paragraph (3)* ensures that the application may not be determined by the licensing authority until the application under the existing legislation is determined. This is to ensure that no determination is made before it is known for certain whether the applicant will have a right to be granted a premises licence under the conversion rights conferred by this Part of the draft Order. *Sub-paragraph (3)* also ensures that the licensing authority are only under a duty to grant the premises licence application where the application under the existing legislation is granted.
103. *Sub-paragraph (4)* ensures that, where the application is granted before 1 September 2007, it then falls to be treated for the purposes of paragraph 37 in the same way as a case where the applicant was an existing licence holder when making the premises licence application. Therefore, in the unlikely event that the newly granted licence or permit was revoked or cancelled, the applicant's conversion rights would cease to apply.
104. *Sub-paragraph (5)* makes it clear that continuation rights under paragraph 38 only apply where the application under the existing legislation is granted before 1 September 2007. In most cases (but see the note on paragraph 40 below), the applicant is subject to an additional notification requirement in these circumstances. *Sub-paragraph (8)* requires the applicant to notify the licensing authority within a 14 day period beginning on the day when the application under the existing legislation is granted. If the applicant fails to notify the licensing authority within that period, the continuation rights under paragraph 38 lapse.

Paragraph 40: Special provisions where the application for the premises licence and the application under the existing legislation are being made to the same authority

105. This paragraph is concerned with the situation where a person is an existing premises operator because he is applying for a section 34 permit for an amusement arcade. It is also concerned with the situation where a person is an existing premises operator because he is applying in Scotland for a betting premises licence, a casino licence or a bingo licence.
106. In each of these cases, where the applicant is entitled to conversion rights, and/or continuation rights because the application under the existing legislation is granted before 1 September 2007, the additional notification requirements in paragraph 39 are not to apply. This is because the authority deciding the application under the 1963 or 1968 Act is the same as the licensing authority responsible for granting the premises licence under the 2005 Act.

Paragraph 41: Determination of premises licence applications where the application under the existing licence is refused

107. This paragraph makes provision about the determination of the premises licence application in a conversion rights case where the application under the existing legislation is refused. In those circumstances, *sub-paragraphs (3) and (4)* require the applicant to notify the licensing authority of the refusal within a 14 day period beginning on the date of refusal. If the applicant fails to do so, the premises licence application is to be treated as having been withdrawn. Where the premises licence application does not lapse (because the applicant notifies the licensing authority within the required 14 day period), the premises licence application will then fall to be treated in the same way as any other case where conversion rights do not apply. The only difference is that, where section 160 of the 2005 Act requires notice to be published of the application, that notice is to be published within a 14 day period beginning on the date on which the application under the existing legislation is refused.

Paragraph 42: Restrictions on the grant of casino premises licences

108. This paragraph and paragraphs 43 to 45 make provision which is specific to casinos, casino premises licences and applications for such licences. Paragraph 42 is concerned specifically with the situation where an application for a casino premises licence is made by a person who is an existing premises operator because they are applying for a casino licence under the 1968 Act. Paragraph 42 ensures that, where the application under the existing legislation is refused, the casino premises licence application must also be rejected.

Paragraph 43: Restrictions on the conversion of casino licences

109. This paragraph is connected to the draft Gambling Act 2005 (Transitional Provisions) Order 2006. That Order prohibits the Gambling Commission from issuing a consent under paragraph 4 of Schedule 2 to the 1968 Act where the application is made on or after 29 April 2006. Although not provided for in the version of the draft Order published on the Department's website, we now envisage the Order containing certain exceptions. One of these is likely to disapply the 29 April cut-off where the application is made by a person who holds a casino licence in respect of other premises, and those premises can no longer be used as a casino for reasons outside that person's control. This exception would allow an existing operator to continue to be able to move his business where, for reasons outside his control, it is no longer possible to operate a casino from the previously licensed premises. The purpose behind

paragraph 43 is to ensure that, the previous casino licence cannot be used by the operator to obtain an additional converted casino premises licence.

Paragraph 44: Application of the Gambling Act 2005 to casino premises licences granted on a conversion application

110. This paragraph makes provision for the modifications to Part 8 of the 2005 Act which are to apply where a casino premises licence is issued on an application by an existing operator. The modifications are set out in *sub-paragraphs (4) to (12)*. They are as follows:

- A provision to disapply section 175(1) to (3) which limits the number of casino premises licence that may be issued. This ensures that converted casino premises licences do not count towards those limits.
- A provision to disapply the provisions of section 175 and Schedule 9 which require a two stage application process for casinos premises licences.
- A provision to disapply section 174(1) which only allows casino premises licences to be issued in respect of regional, large and small casinos.
- A provision modifying section 172(3) to (5) so that a converted casino premises licence authorises the holder to make available either 20 gaming machines of which at least one is a Category B machine, or an unlimited number of Category C and D gaming machines. This provision applies irrespective of the size of the casino.
- A provision modifying section 174(2) so that a converted casino premises licence does not have the effect of authorising the playing of bingo in the casino.
- A provision which removes the restriction in section 187(2) which prohibits a premises licence from being varied so as to relate to premises to which it did not previously relate. However, *sub-paragraph (12)* ensures that a converted casino premises licence may only be varied to relate to different premises where those premises are in the same licensing authority area.

Sub-paragraph (13) ensures that the modifications set out in *sub-paragraphs (7) to (11)* will no longer apply in relation to a particular category of casino if the limit on the numbers of that category of casino is removed. For these purposes a casino which is below the size for a small casino is to be treated as a small casino.

Paragraph 45: Non-conversion applications for casino premises licences

111. This paragraph ensures that, where a converted casino premises licence has been issued, it does not prevent a non-conversion application for a casino premises licence being made in respect of the same or substantially the same premises.

Schedule 4, Part 7

112. This Part makes provision about the conversion of society and local authority scheme registrations under the 1976 Act into the appropriate permission under the 2005 Act.

Paragraph 46: Conversion of society registrations into lottery operating licences

113. This paragraph provides for the conversion of a society registration under Schedule 1A to the 1976 Act into the grant of a lottery operating licence to the society concerned. It applies where the registration has effect immediately before 1 September 2007 or where the society is registered on or after that

date. Where the paragraph applies, the Gambling Commission are under a duty to issue a lottery operating licence to the society concerned.

114. *Sub-paragraph (4)* provides that a lottery operating licence issued in this way is to have effect as both a remote and non-remote operating licence. It is anticipated that the Gambling Commission will specify conditions under section 75 of the 2005 Act in relation to such a licence to restrict the remote activities that it authorises so that they reflect what is currently allowed under the existing legislation. *Sub-paragraph (6)* requires the Commission to exercise its powers under section 75 to specify conditions in relation to converted society lottery operating licences.

Paragraph 47: Provisions ensuring that societies registered under Schedule 1A to the 1976 Act can continue to operate on and after 1 September 2007

115. This paragraph ensures that, where a society is registered under Schedule 1A to the 1976 Act immediately before 1 September 2007, the society can continue lawfully to promote lotteries on and after that date, even where the Gambling Commission has not issued the converted lottery operating licence. To this end, *sub-paragraph (1)* provides that, until the Gambling Commission grants the converted society lottery operating licence, the society is to be treated for the purposes of the 2005 Act as if it holds such a licence.

116. This continuation right is subject, however, to the requirement in *sub-paragraph (2)* that the society or a person acting on its behalf complies with any relevant operating licence conditions. *Sub-paragraph (5)* defines the expression "relevant operating licence conditions" to mean:

- Any conditions specified by the Gambling Commission under section 75 of the 2005 Act which apply to a converted society lottery operating licence;
- Any conditions specified by the Secretary of State in regulations under section 78 of the 2005 Act; and
- Any conditions attached to lottery operating licences by virtue of any provision of the 2005 Act.

Paragraphs 48 and 49: Conversion of local lottery scheme registrations into lottery operating licences

117. These paragraphs are concerned with the conversion of a local authority scheme registration under Schedule 2 to the 1976 Act into the grant of a lottery operating licence to the local authority concerned. The provisions are the same as those for societies in paragraphs 46 and 47 of the draft Order.

Paragraph 50: Duration of converted lottery operating licences and their renewal

118. This paragraph makes provision about the duration of converted lottery operating licences, and their renewal. Because the grant of converted lottery operating licences is automatic, they are not of indefinite duration. Instead, the general rule is that a converted lottery operating licence is to last until three years has elapsed since the last fee was payable in respect of its 1976 Act registration. Where no fee has been payable, a converted lottery operating licence is to last for three years from the date of registration.

119. *Sub-paragraph (2)* extends the duration of a converted lottery operating licence in certain circumstances. Where the holder applies for the renewal of a

converted lottery operating licence at least two months before its expiry date, the licence is to continue to have effect beyond the expiry date until the application for renewal is determined or withdrawn.

Paragraph 51: Application of the Gambling Act 2005 to converted lottery operating licence

120. This paragraph modifies certain provisions of Part 5 of the 2005 Act in their application to converted lottery operating licences. The duty to pay an annual fee under section 100 is not to apply. Similarly, sections 110 to 112 (which make provision about the duration of operating licences) are not apply.

Paragraph 52: Conversion of society registrations into registrations under the Gambling Act 2005

121. This paragraph provides for the conversion of a society registration under Schedule 1A to the 1976 Act into a society registration under Part 5 of Schedule 11 to the 2005 Act. It applies where the registration has effect immediately before 1 September 2007 or where the society is registered on or after that date. In these circumstances, the local authority with responsibility for registrations under Part 5 of Schedule 11 has responsibility for registering the society without any application being made by the society itself. In England and Wales, the registering authority is the same under the 1976 and 2005 Acts. In Scotland, the 1968 Act authority is the local council. That authority is required to provide information about each registered society to the licensing board which is the 2005 Act authority. Until a society is registered under the 2005 Act, *sub-paragraph (10)* provides for it to be treated as having been registered under that Act.

Schedule 4, Part 8

122. This Part provides for club registrations under the 1968 Act to be converted into club gaming or machine permits under the 2005 Act.

Paragraph 53: Conversion of a club registration under Part 2 of the 1968 Act into a club gaming permit: scope of application of provisions

123. Paragraphs 54 to 56 provide for the conversion of club registrations under Part 2 of the 1968 Act into club gaming permits under the 2005 Act. This paragraph specifies those clubs and miners' welfare institutes which are to benefit from these conversion rights. They are clubs and institutes whose registration under Part 2 has effect immediately before 1 September 2007 or those which are so registered on or after that date.

Paragraph 54: Provision of information by the 1968 Act registration authority

124. In both England and Wales and Scotland the registration authority under the 1968 Act is different from the licensing authority under the 2005 which is responsible for issuing club gaming permits. Although under the provisions in this Part a club must apply for its converted club gaming permits, that application only need be made 2 months before the registration under the 1968 Act is due to expire. Transitional provisions ensure that the club is treated as having a club gaming permit in the intervening period. In order to ensure that the licensing authority is aware of such clubs in its area, this paragraph requires the 1968 Act authority to provide certain information to the licensing authority under the 2005 Act. That information is specified in *sub-paragraph (3)*. The information must be provided on or as soon as practicable after 1 September 2007, where the club's registration has effect

immediately before that date. Where the club is registered on or after that date, the information is to be provided on the date of registration or as soon as practicable after that date.

Paragraph 55: Duty of licensing authority to convert a registration under Part 2 of the 1968 Act into a club gaming permit

125. This paragraph sets out the process for converting registrations under Part 2 of the 1968 Act into club gaming permits under the 2005 Act. Provided the club or institute applies for the permit by a specified date the licensing authority is under a duty to issue the club gaming permit. Where the club registration under the 1968 Act has effect before 1 September 2007, that date is 2 months before the date on which the 1968 registration was due to expire. Where the club is registered on or after 1 September 2007, the date is 10 months after the date on which the club was registered- that is, 2 months before one year after the club was registered.

Paragraph 56: Transitional provisions applying until the club gaming permit is issued

126. This paragraph provides for a club or miners' welfare institute, which is entitled to a converted club gaming permit, to be treated as if it had been granted such a permit during the period until the permit is actually granted. The effect of *sub-paragraphs (4) to (12)* is to apply the provisions of Schedule 12, which regulate club gaming permits, to the club or institute during this transitional period. The same provisions apply to clubs in Scotland during this transitional period as apply to clubs in England and Wales.

Paragraphs 57 to 60: Conversion of a club registration under Part 3 of the 1968 Act into a club machine permit

127. These paragraphs make provision about the conversion of club registrations under Part 3 of the 1968 Act into club machine permits under the 2005 Act. The provisions are the same as those for converting club registrations under Part 2 of the 1968 Act into club gaming permits.

Schedule 4, Part 9

128. This Part provides for the conversion of permits under section 34 of the 1968 Act for amusement arcades into family entertainment centre (FEC) gaming machine permits under the 2005 Act.

Paragraph 61: Meaning of existing operator in relation to the conversion of section 34 permits into FEC gaming machine permits

129. A person is treated as an existing operator if either they either hold a section 34 permit in respect of an amusement arcade (ie premises referred to in the 1968 Act as amusement machine premises), or they are applying for such a permit and the application has not been withdrawn or finally determined.

Paragraph 62: Conversion of section 34 permits into FEC gaming machine permits

130. This paragraph specifies the process for converting a section 34 permit in respect of an amusement arcade into a FEC gaming machine permit. It provides that, if an application is made before 1 September 2007 by an existing operator, the licensing authority must grant that application and issue a FEC gaming machine permit.

Paragraph 63: Provisions to ensure that existing operators can continue to operate on and after 1st September 2007

131. This paragraph is concerned with ensuring that existing operators can continue to operate on and after 1 September 2007. It provides that, where the advance application for a FEC gaming machine permit is made before 28 April 2007, the licensing authority must grant that application before 1 September 2007. Where they fail to do so, the permit is to be treated as having been issued on that date. *Sub-paragraph (4)* ensures that in these circumstances the licensing authority are still under a duty to issue the actual permit as soon as practicable after 1 September 2007.

Paragraph 64: Provisions applying where the applicant is an existing operator because an application is being made for a section 34 permit

132. This paragraph makes special provision for those cases where the applicant is an existing operator because they are in the process of applying for a section 34 permit in respect of an amusement arcade. In those circumstances the licensing authority may not determine the application for the FEC gaming machine permit until the application for the section 34 permit has been determined. Also, the licensing authority are only under a duty, by virtue of paragraph 62, to grant the FEC gaming machine permit if the section 34 permit is granted. Continuation rights under paragraph 63 are only to apply where the application for the section 34 permit is granted before 1 September 2007.

Paragraph 65: Conversion of section 34 permits into FEC gaming machine permits: supplementary provisions where premises are situated in Scotland

133. This paragraph makes specific provision in relation to Scotland where the authority which has the power to grant section 34 permits (the Council) is different from the licensing authority under the 2005 Act (the licensing board). The paragraph applies specifically to those cases where the applicant for a FEC gaming machine permit is an existing operator because he is applying for a section 34 permit.

134. In a case covered by this paragraph the licensing authority are not to be under a duty, by virtue of paragraph 62, to grant the FEC gaming machine permit until they have been notified by the applicant that the application for the section 34 permit has been granted. Where continuation rights under paragraph 63 apply because the section 34 permit is granted before 1 September 2007, the applicant must notify the licensing authority within a period of 14 days of the grant of the application. Where they fail to do so, continuation rights will cease to apply.

Schedule 4, Part 10:

135. This Part provides for the conversion of permits under section 16 of the 1976 Act into prize gaming permits under the 2005 Act.

Paragraph 66: Meaning of existing operator in relation to the conversion of section 16 permits into prize gaming permits

136. A person is treated as an existing operator if either they either hold a section 16 permit, or they are applying for such a permit and the application has not been withdrawn or finally determined.

Paragraph 67: Conversion of section 16 permits into prize gaming permits

137. This paragraph specifies the process for converting a section 16 permit in respect of an amusement arcade into a prize gaming permit. It provides that, if an application is made before 1 September 2007 by an existing operator, the licensing authority must grant that application and issue a prize gaming permit.

Paragraph 68: Provisions to ensure that existing operators can continue to operate on and after 1st September 2007

138. This paragraph is concerned with ensuring existing operators can continue to operate on and after 1 September 2007. It provides that, where the advance application for a prize gaming permit is made before 28 April 2007, the licensing authority must grant that application before 1 September 2007. Where they fail to do so, the permit is to be treated as having been issued on that date. *Sub-paragraph (4)* ensures that in these circumstances the licensing authority are still under a duty to issue the actual permit as soon as practicable after 1 September 2007.

Paragraph 69: Provisions applying where the applicant is an existing operator because an application is being made for a section 16 permit

139. This paragraph makes special provision for those cases where the applicant is an existing operator because they are in the process of applying for a section 16 permit. In those circumstances the licensing authority may not determine the application for the prize gaming permit until the application for the section 16 permit has been determined. Also, the licensing authority are only under a duty, by virtue of paragraph 67, to grant the prize gaming permit if the section 16 permit is granted. Continuation rights under paragraph 68 are only to apply where the application for the section 16 permit is granted before 1 September 2007.

Paragraph 70: Conversion of section 16 permits into prize gaming permits: supplementary provisions where premises are situated in Scotland

140. This paragraph makes specific provision in relation to Scotland where the authority which has the power to grant section 16 permits (the Council) is different from the licensing authority under the 2005 Act (the licensing board). The paragraph applies specifically to those cases where the applicant for a prize gaming permit is an existing operator because he is applying for a section 16 permit.

141. In a case covered by this paragraph the licensing authority are not to be under a duty, by virtue of paragraph 67, to grant the prize gaming permit until they have been notified by the applicant that the application for the section 16 permit has been granted. Where continuation rights under paragraph 68 apply because the section 16 permit is granted before 1 September 2007, the applicant must notify the licensing authority within a period of 14 days of the grant of the application. Where they fail to do so, continuation rights will cease to apply.