



department for
culture, media
and sport

New Gambling Act Explained Councillors

KEEPING GAMBLING CRIME FREE, FAIR AND OPEN, PROTECTING CHILDREN AND VULNERABLE ADULTS





This leaflet has been prepared by the Department for Culture, Media and Sport's (DCMS) Gambling Division to help Local Authority Councillors to better understand their new role under the Gambling Act 2005.

Background

The new Gambling Act 2005 comes into force on 1 September 2007. It has created a unified regulator for gambling in Great Britain called the Gambling Commission, as well as establishing a new licensing regime for commercial gambling. The Gambling Commission will regulate commercial gambling in Great Britain, except the National Lottery and Spread Betting, and will issue operating and personal licences.

The Gambling Act 2005 transfers all responsibility for licensing gambling premises from Licensing Justices to Licensing Authorities (the Local Authority in England and Wales). Licensing Authorities will also be responsible for a number of different permits, as well as temporary and occasional use notices. In Scotland, local authority licensing boards will be the licensing authorities responsible for gambling functions under the Act.

Local Authorities and the new Act

Local Authorities acting as Licensing Authorities will now issue premises licences for the following activities:

- bingo
- betting
- adult gaming centres
- Family Entertainment Centres
- casinos
- sporting tracks, including horse racing and dog tracks.

They will issue permits for:

- gaming machines in alcohol licensed premises, such as pubs
- gaming machines for members clubs
- other gaming activities in members' clubs
- category D machines* in unlicensed Family Entertainment Centres
- prize gaming.

**Category D machines are those that can be used by children and have the lowest level of stakes and prizes*

They will also register and issue:

- small society lotteries
- occasional and temporary use notices
- provisional statements.



Councillors and the new Act

For premises licence applications and reviews, Councillors will sit on licensing committees as they do for the Licensing Act 2003. For permits other arrangements may apply, depending upon delegations. In Scotland, the relevant procedures of the licensing boards will apply.

Unlike the Licensing Act 2003, Councillors may make representations without being asked by a resident specifically to do so, although they will have to bear in mind wider issues of bias, prejudice and personal interests. Representations may only be made in relation to premises licences, not permits.

The new Gambling Act requires that all Local Authorities prepare, consult and publish a *Statement of Gambling Policy*, which sets out the principles of how it will carry out this licensing work over the next three years. These will be open to public consultation and must be approved by the full council before final publication.

Applications Premises Licences

Licensing Authorities will accept applications under the new Act from 30 April 2007. All operators must apply for new permissions under the new Act

if they wish to operate after 1 September 2007. This also applies to all operators wanting to continue an existing business or start a new operation.

A Licensing Authority should aim to permit the use of premises for gambling if it believes that the application is:

- in accordance with any relevant Guidance or Codes of Practice issued by the Gambling Commission
- reasonably consistent with the licensing objective
- in accordance with the Authority's *Statement of Gambling Policy*.

Processing Applications Premises Licences

When an application for a premises licence is being made, representations from external parties may be made about the application. The Licensing Authority will consider all relevant representations, as well as other factors, before making a final decision.

Only representations made by a *Responsible Authority or Interested Party* will be considered and they must be relevant. The definitions of these two categories differ from those included in the Licensing Act 2003.



A *Responsible Authority* must be notified by the applicant when an application for a premises licence is being made.

A *Responsible Authority* is a public body which can make a representation in relation to the application, as well as to an existing licence.

They are:

- a Licensing Authority in England and Wales in whose area the premises is wholly or partly situated
- a Local Authority (in Scotland)
- the Gambling Commission
- a Police Authority
- a Fire and Rescue Authority
- a Planning Authority
- a Environmental Health Authority (or equivalent)
- the body designated by the local authority as competent to advise about the protection of children from harm (Social Services etc)
- the HM Revenue and Customs
- Navigation Authorities (Environment Agency, British Waterways Board, Maritime and Coastguard Agency) and the Secretary of State (for vessels only).

An *Interested Party* is a person who:

- lives sufficiently close to the premises to be affected by the authorised activities
- has business interests that might be affected by the authorised activities
- represents people in either of the above groups (eg lawyer, accountant, councillor, community association, chamber of commerce etc).

Representations that are relevant are those issues which relate to the gambling Commission's *Guidance or Codes of Practice*; issues related to the Gambling Act 2005's three licensing objectives (as listed above); or issues related to the Authority's *Statement of Gambling Policy*. Where Responsible Authorities make representations that are not relevant under the new Act, they may take action under their own legislation and enforcement powers.

A premises licence, once issued, will be set for an unlimited duration but the Licensing Authority does have the power to review and revoke it any time, and it may be surrendered or lapsed due to death or bankruptcy of the holder.



The Licensing Authority may grant premises licences to pleasure boats and floating restaurants, but a vessel going into international waters (eg a cross channel ferry) does not need a licence. Trains and cars are not entitled to hold a premises licence.

Licence Conditions Premises Licences

There are a number of conditions attached to premises licences under the new Act, and additional conditions may also be attached by both the Secretary of State and the Licensing Authority.

Mandatory conditions are set by the Secretary of State or Scottish Ministers. A Licensing Authority has no power to remove or vary these mandatory conditions.

Default conditions are attached in the same way as mandatory conditions, however, the Licensing Authority may remove or replace them. The Gambling Commission's Guidance suggests that these default conditions are expected to be the industry norm. Whilst Licensing Authorities may remove default conditions if they think this is appropriate, they must consider carefully before imposing a

regime that is stricter than the one that is expected to be the industry norm.

The Licensing Authority may also attach *individual conditions* to a licence, for example, door supervision.

Unlike the Licensing Act, officers may make recommendations to add conditions to premises licences without the need to make formal recommendations.

Hearings

The Licensing Committee must consider an application at a hearing if relevant representations are made and not withdrawn, or if the licensing officer proposes that individual conditions should be attached to the licence (either new conditions or the removal/variation of default conditions). Regulations regarding hearings will be published.

The Licensing Committee will usually delegate to a licensing officer to grant or reject an application where no representations are made, unless conditions are to be attached.



Appeals

Appeals against decisions made by Licensing Authorities in England and Wales are made to the Magistrates' Court in England and to the Sheriff's court in Scotland.

Fees

The Secretary of State will set fee maxima for premises licenses. Licensing Authorities will then set precise fees, limited to cost recovery. This will allow Authorities flexibility and the industry a degree of certainty.

In addition, excellent performing Authorities (those with top CPA ratings) will be able to set premises licence fees above the maxima, but again limited to cost recovery.

Casinos

Local Authorities have new powers to:

- issue premises licenses for casinos
- resolve not to issue any further casino premises licenses in their area.

In Scotland, licensing boards will perform these functions.

The Act creates three new casino categories and initially allows for 17 new premises licences to be issued across Britain: 1 regional, 8 large and 8 small casinos.

An independent panel will advise the Government where these new casinos should be located, once an assessment of their social impact and the likely regeneration benefits has been made.



The new Gambling Act 2005 contains three licensing objectives that underpin the entire legislation:

- **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.**

More information

Further details can be found in the Gambling Commission's *Guidance to Licensing Authorities* and the DCMS' *Gambling Act 2005 Transitional Arrangements* and *Gambling Act 2005 Training Materials for Licensing Authorities*.

Department for Culture Media and Sport

www.culture.gov.uk

Gambling Commission

www.gamblingcommission.gov.uk

Local Authorities Coordinators of Regulatory Services

www.lacors.gov.uk

Institute of Licencing

www.instituteoflicensing.org



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