



# Gambling Act 2005

## 2005 CHAPTER 19

### PART 8

#### PREMISES LICENCES

##### *The licence*

#### **150 Nature of licence**

- (1) A premises licence is a licence which states that it authorises premises to be used for—
  - (a) the operation of a casino (a “casino premises licence”),
  - (b) the provision of facilities for the playing of bingo (a “bingo premises licence”),
  - (c) making Category B gaming machines available for use (an “adult gaming centre premises licence”),
  - (d) making Category C gaming machines available for use (a “family entertainment centre premises licence”), or
  - (e) the provision of facilities for betting, whether by making or accepting bets, by acting as a betting intermediary or by providing other facilities for the making or accepting of bets (a “betting premises licence”).
- (2) A casino premises licence is—
  - (a) a “regional casino premises licence” if it relates to a regional casino,
  - (b) a “large casino premises licence” if it relates to a large casino, and
  - (c) a “small casino premises licence” if it relates to a small casino.
- (3) Neither a premises licence nor any provision of this Part disappplies or provides a defence to the offence under section 33.

#### **151 Form of licence**

- (1) A premises licence must—
  - (a) specify the name of the person to whom it is issued,

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- (b) specify a home or business address of that person,
  - (c) specify the premises to which it relates,
  - (d) specify the activities for which it authorises the premises to be used,
  - (e) specify any condition attached by the licensing authority under section 169(1)(a),
  - (f) specify any exclusion of a default condition effected by the licensing authority under section 169(1)(b),
  - (g) include a plan of the premises, and
  - (h) if a period is prescribed under section 191 at the end of which the licence will expire (unless renewed or terminated earlier), specify the period.
- (2) The Secretary of State may make regulations about—
- (a) the form of a premises licence, and
  - (b) the content of a premises licence (which may, in particular, require the inclusion of information about mandatory conditions, default conditions or conditions attached to the licence by virtue of a provision of this Part).
- (3) In relation to a premises licence issued in Scotland, subsection (2) shall have effect as if the reference to the Secretary of State were a reference to the Scottish Ministers.

## **152 Combined licence, &c.**

- (1) A premises licence—
- (a) may not authorise the use of premises for activities of more than one of the kinds specified in section 150(a) to (e) (subject to sections 172 to 174 and subsection (2) below), and
  - (b) may not be issued in respect of premises if a premises licence already has effect in relation to the premises (subject to subsection (3)).
- (2) Subsection (1)(a) does not apply in the case of a track.
- (3) More than one premises licence may have effect in relation to a track provided that—
- (a) each licence relates to a specified area of the track, and
  - (b) not more than one premises licence has effect in relation to any area of the track.
- (4) If a person applies for a premises licence in respect of an area of a track (“a subsidiary licence”) and a premises licence already has effect in respect of the whole track or a part of the track that includes that area (“the main licence”)—
- (a) the application for the subsidiary licence must be accompanied by an application under section 187 to vary the main licence so that it does not have effect in relation to the area to which the subsidiary licence is to relate, and
  - (b) the application for the subsidiary licence may be granted only after, or together with, the grant of the application for variation.

### *Licensing authorities' functions*

## **153 Principles to be applied**

- (1) In exercising their functions under this Part a licensing authority shall aim to permit the use of premises for gambling in so far as the authority think it—

- (a) in accordance with any relevant code of practice under section 24,
  - (b) in accordance with any relevant guidance issued by the Commission under section 25,
  - (c) reasonably consistent with the licensing objectives (subject to paragraphs (a) and (b)), and
  - (d) in accordance with the statement published by the authority under section 349 (subject to paragraphs (a) to (c)).
- (2) In determining whether to grant a premises licence a licensing authority may not have regard to the expected demand for the facilities which it is proposed to provide.
- (3) This section is subject to section 166.

#### **154 Delegation of licensing authority functions: England and Wales**

- (1) The functions under this Part of a licensing authority in England and Wales are by virtue of this subsection delegated to the licensing committee of the authority established under section 6 of the Licensing Act 2003 (c. 17).
- (2) But—
- (a) a licensing authority's functions under section 166 are not delegated by virtue of subsection (1) and may not be delegated by the authority,
  - (b) a licensing authority's functions under section 212 are not delegated by virtue of subsection (1) but may be delegated by the authority, and
  - (c) a licensing authority's function under section 349 is not delegated by virtue of subsection (1) and may not be delegated by the authority.
- (3) The following provisions of the Licensing Act 2003 shall apply in relation to a function delegated to a licensing committee by virtue of subsection (1) or (2)(b) as they apply in relation to a function delegated under that Act—
- (a) section 7(9) (referral back to licensing authority), and
  - (b) section 10 (sub-delegation).
- (4) In the application of section 10(4) of that Act (matters not to be delegated to officer) by virtue of subsection (3) above, the following shall be substituted for the list of functions—
- (a) determination of an application for a premises licence in respect of which representations have been made under section 161 (and not withdrawn),
  - (b) determination of an application for the variation of a premises licence in respect of which representations have been made under section 161 as applied by section 187 (and not withdrawn),
  - (c) determination of an application for transfer following representations by the Commission,
  - (d) determination of an application for a provisional statement under section 204 in respect of which representations have been made under section 161 as applied by section 204 (and not withdrawn), and
  - (e) a review of a premises licence under section 201.
- (5) The provisions of section 9 of that Act and regulations under it apply to proceedings of licensing committees and their sub-committees in relation to the exercise of functions under this Part; and for that purpose regulations may, in particular, make provision which applies—

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- (a) only in relation to functions under that Act,
- (b) only in relation to functions under this Part, or
- (c) differently in relation to functions under that Act and functions under this Part.

### **155 Delegation of functions under Part 8: Scotland**

- (1) Subject to subsection (2), a licensing authority in Scotland may arrange for the discharge of any of their functions under this Part by a committee of the authority, a member or members of the authority, the clerk of the authority or any person appointed to assist the clerk.
- (2) A licensing authority are not to make any arrangements under subsection (1)—
  - (a) in relation to their power under section 166 or their function under section 349, or
  - (b) for the discharge by the clerk of the authority or any person appointed to assist the clerk of any of the authority's functions mentioned in paragraphs (a) to (e) of section 154(4).
- (3) The procedures applicable to the proceedings of licensing boards in the exercise or their functions under the Licensing (Scotland) Act 1976 apply to the proceedings of those boards in the exercise of their functions under this Part: and for that purpose regulations made by the Scottish Ministers may, in particular, make provision which applies—
  - (a) only in relation to functions under that Act,
  - (b) only in relation to functions under this Part, or
  - (c) differently in relation to functions under that Act and functions under this Part.

### **156 Register**

- (1) A licensing authority shall—
  - (a) maintain a register of premises licences issued by the authority together with such other information as may be prescribed,
  - (b) make the register and information available for inspection by members of the public at all reasonable times, and
  - (c) make arrangements for the provision of a copy of an entry in the register, or of information, to a member of the public on request.
- (2) A licensing authority may refuse to provide a copy of an entry or of information unless the person seeking it pays a reasonable fee specified by the authority.
- (3) The Secretary of State may make regulations about—
  - (a) the form of the register;
  - (b) the manner in which it is maintained.
- (4) The Secretary of State may make regulations—
  - (a) requiring licensing authorities to give to the Commission specified information about premises licences issued by them,
  - (b) requiring the Commission to maintain a register of the information provided to it under paragraph (a),
  - (c) requiring the Commission to grant access to the register to members of the public (without charge),

- (d) requiring the Commission to make copies of entries available on request, and on payment of a reasonable fee, to members of the public, and
- (e) excusing licensing authorities, wholly or partly, from compliance with subsection (1).

*Other relevant persons*

**157 Responsible authorities**

For the purposes of this Part the following are responsible authorities in relation to premises—

- (a) a licensing authority in England and Wales in whose area the premises are wholly or partly situated,
- (b) the Commission,
- (c) either—
  - (i) in England and Wales, the chief officer of police for a police area in which the premises are wholly or partly situated, or
  - (ii) in Scotland, the chief constable of the police force maintained for a police area in which the premises are wholly or partly situated,
- (d) the fire and rescue authority for an area in which the premises are wholly or partly situated,
- (e) either—
  - (i) in England and Wales, the local planning authority, in accordance with Part I of the Town and Country Planning Act 1990 (c. 8), for an area in which the premises are wholly or partly situated, or
  - (ii) in Scotland, the planning authority, in accordance with Part 1 of the Town and Country Planning (Scotland) Act 1997 (c. 8), for an area in which the premises are wholly or partly situated,
- (f) the council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c. 39) for an area in which the premises are wholly or partly situated,
- (g) an authority which has functions by virtue of an enactment in respect of minimising or preventing the risk of pollution of the environment or of harm to human health in an area in which the premises are wholly or partly situated,
- (h) a body which is designated in writing for the purposes of this paragraph, by the licensing authority for an area in which the premises are wholly or partly situated, as competent to advise the authority about the protection of children from harm,
- (i) Her Majesty's Commissioners of Customs and Excise, and
- (j) any other person prescribed for the purposes of this section by regulations made by the Secretary of State.

**158 Interested party**

For the purposes of this Part a person is an interested party in relation to a premises licence or in relation to an application for or in respect of a premises licence if, in the opinion of the licensing authority which issues the licence or to which the application is made, the person—

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- (a) lives sufficiently close to the premises to be likely to be affected by the authorised activities,
- (b) has business interests that might be affected by the authorised activities, or
- (c) represents persons who satisfy paragraph (a) or (b).

### *Application for licence*

## **159 Making of application**

- (1) A person may apply to a licensing authority for a premises licence to be issued to him authorising the use of premises to carry on an activity listed in section 37(1).
- (2) An application must be made to a licensing authority in whose area the premises are wholly or partly situated.
- (3) An application may be made only by a person who—
  - (a) holds an operating licence which authorises him to carry on the activity in respect of which the premises licence is sought, or
  - (b) has made an application, which has not yet been determined, for an operating licence which authorises him to carry on the activity in respect of which the premises licence is sought.
- (4) But subsection (3) does not apply to an application for a premises licence which authorises a track to be used for accepting bets (and which does not also, otherwise than by virtue of section 172, authorise it to be used for another purpose).
- (5) An application may be made only by a person who has a right to occupy the premises to which the application relates.
- (6) An application must—
  - (a) be made in the prescribed form and manner,
  - (b) contain or be accompanied by the prescribed information or documents, and
  - (c) be accompanied by the prescribed fee.
- (7) Regulations prescribing a matter for the purposes of this section may, in particular, make different provision for—
  - (a) applications in respect of different classes of activity, or
  - (b) different circumstances.
- (8) In this section “prescribed” means—
  - (a) in relation to applications to authorities in England and Wales, prescribed by regulations made by the Secretary of State, and
  - (b) in relation to applications to authorities in Scotland, prescribed by regulations made by the Scottish Ministers.

## **160 Notice of application**

- (1) The Secretary of State may make regulations requiring an applicant for a premises licence—
  - (a) to publish notice of his application;
  - (b) to give notice of his application to the responsible authorities in relation to the premises;

- (c) to give notice of his application to other persons.
- (2) Regulations under subsection (1) shall include provision—
  - (a) about the manner and form in which notice is to be published or given,
  - (b) about the period of time within which notice is to be published or given, and
  - (c) for the consequences of failure to comply with the regulations.
- (3) In so far as this section has effect in relation to applications to authorities in Scotland, the reference to the Secretary of State shall have effect as a reference to the Scottish Ministers.

## **161 Representations**

- (1) Where an application is made to a licensing authority for a premises licence, an interested party or responsible authority in relation to the premises may make representations in writing to the licensing authority.
- (2) Representations under subsection (1) must be made within such period as the Secretary of State shall prescribe by regulations.
- (3) In so far as this section has effect in relation to applications to authorities in Scotland, the reference to the Secretary of State shall have effect as a reference to the Scottish Ministers.

### *Determination of application*

## **162 Requirement for hearing**

- (1) In determining an application for a premises licence a licensing authority must hold a hearing if—
  - (a) an interested party or responsible authority has made (and not withdrawn) representations about the application under section 161,
  - (b) the authority propose to attach a condition to the licence under section 169(1)(a), or
  - (c) the authority propose to exclude under section 169(1)(b) a condition that would otherwise be attached to the licence under section 168.
- (2) But a licensing authority may determine an application for a premises licence without a hearing despite subsection (1) with the consent of—
  - (a) the applicant, and
  - (b) any interested party or responsible authority who has made (and not withdrawn) representations about the application under section 161.
- (3) A licensing authority may also determine an application for a premises licence without a hearing despite subsection (1)(a) if the authority think that the representations made under section 161—
  - (a) are vexatious,
  - (b) are frivolous, or
  - (c) will certainly not influence the authority's determination of the application.

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- (4) If a licensing authority propose to determine an application in reliance on subsection (3) they shall as soon as is reasonably practicable notify any person who made representations under section 161.

### **163 Determination of application**

- (1) On considering an application for a premises licence (whether at a hearing or not) a licensing authority shall—
- (a) grant it, or
  - (b) reject it.
- (2) A licensing authority shall not determine an application for a premises licence made in reliance on section 159(3)(b) until the relevant operating licence has been issued (in a form which authorises the applicant to carry on the activity in respect of which the premises licence is sought).

### **164 Grant of application**

- (1) Where a licensing authority grant an application for a premises licence they shall as soon as is reasonably practicable—
- (a) give notice of the grant to —
    - (i) the applicant,
    - (ii) the Commission,
    - (iii) any person who made representations about the application under section 161,
    - (iv) in England and Wales, the chief officer of police for any area in which the premises are wholly or partly situated,
    - (v) in Scotland, the chief constable of the police force maintained for a police area in which the premises are wholly or partly situated, and
    - (vi) Her Majesty’s Commissioners of Customs and Excise,
  - (b) issue a premises licence to the applicant, and
  - (c) give the applicant a summary of the terms and conditions of the licence in the prescribed form.
- (2) A notice under subsection (1)(a)—
- (a) must be in the prescribed form,
  - (b) if the licensing authority have attached a condition to the licence under section 169(1)(a) or excluded under section 169(1)(b) a condition that would otherwise have attached by virtue of section 168, must give the authority’s reasons, and
  - (c) if representations were made about the application under section 161, must give the authority’s response to the representations.
- (3) In this section “prescribed” means—
- (a) in relation to authorities in England and Wales, prescribed by regulations made by the Secretary of State, and
  - (b) in relation to authorities in Scotland, prescribed by regulations made by the Scottish Ministers.



## **165 Rejection of application**

- (1) Where a licensing authority reject an application for a premises licence they shall as soon as is reasonably practicable give notice of the rejection to—
  - (a) the applicant,
  - (b) the Commission,
  - (c) any person who made representations about the application under section 161,
  - (d) either—
    - (i) in England and Wales, the chief officer of police for any area in which the premises are wholly or partly situated, or
    - (ii) in Scotland, the chief constable of the police force maintained for a police area in which the premises are wholly or partly situated, and
  - (e) Her Majesty’s Commissioners of Customs and Excise.
- (2) A notice under subsection (1)—
  - (a) must be in the prescribed form, and
  - (b) must give the authority’s reasons for rejecting the application.
- (3) In this section “prescribed” means—
  - (a) in relation to authorities in England and Wales, prescribed by regulations made by the Secretary of State, and
  - (b) in relation to authorities in Scotland, prescribed by regulations made by the Scottish Ministers.

## **166 Resolution not to issue casino licences**

- (1) A licensing authority may resolve not to issue casino premises licences.
- (2) In passing a resolution under subsection (1) a licensing authority may have regard to any principle or matter.
- (3) A resolution under subsection (1)—
  - (a) must apply to the issue of casino premises licences generally,
  - (b) must specify the date on which it takes effect,
  - (c) may be revoked by a further resolution, and
  - (d) shall lapse at the end of the period of three years beginning with the date on which it takes effect (without prejudice to the ability to pass a new resolution).
- (4) A resolution under subsection (1)—
  - (a) may be passed whether or not the licensing authority has already issued casino premises licences,
  - (b) shall have no effect in relation to a casino premises licence issued before the resolution takes effect,
  - (c) shall have no effect in relation to premises in respect of which a provisional statement relating to the operation of a casino is in force when the resolution takes effect,
  - (d) shall have no effect in relation to anything converted into a casino premises licence by virtue of Schedule 18,
  - (e) shall not affect the issuing of a casino premises licence in accordance with a requirement by virtue of Schedule 18, and

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- (f) may not be taken into account in conducting a review of a casino premises licence under section 201.
- (5) A resolution under subsection (1) shall be published by being included in a statement or revision under section 349.
- (6) Section 153 is subject to this section.
- (7) The Secretary of State may by order require a licensing authority to consider whether or not to pass a resolution under subsection (1).
- (8) An order under subsection (7) may—
  - (a) be directed to a particular licensing authority or to a class or description of licensing authority;
  - (b) require the licensing authority to consult such persons or classes of persons as they think are likely to be affected by the resolution (having regard to any guidance given by the Secretary of State);
  - (c) require the licensing authority to take other procedural steps;
  - (d) specify a period within which the consideration must take place;
  - (e) require consideration once or at specified intervals.

### *Conditions*

#### **167 Mandatory conditions**

- (1) The Secretary of State may by regulations provide for a specified condition to be attached to premises licences.
- (2) Regulations under this section may, in particular—
  - (a) make provision which applies generally, only to premises licences in a specified class or only in specified circumstances;
  - (b) make different provision for different classes of licence or for different circumstances.
- (3) In relation to premises licences issued in Scotland subsection (1) shall have effect as if the reference to the Secretary of State were a reference to the Scottish Ministers.

#### **168 Default conditions**

- (1) The Secretary of State may by regulations prescribe for a specified condition to be attached to any premises licence unless excluded by the authority who issue the licence.
- (2) Regulations under this section may, in particular—
  - (a) make provision which applies generally, only to premises licences in a specified class or only in specified circumstances;
  - (b) make different provision for different classes of licence or for different circumstances.
- (3) In relation to a premises licence issued by an authority in Scotland subsection (1) shall have effect as if the reference to the Secretary of State were a reference to the Scottish Ministers.

### **169 Conditions imposed or excluded by licensing authority**

- (1) Where a licensing authority issue a premises licence they may—
  - (a) attach a condition to the licence;
  - (b) exclude a condition that would otherwise be attached to the licence by virtue of section 168.
- (2) A condition attached to the licence under subsection (1)(a) may, in particular, address a matter addressed by a condition excluded under subsection (1)(b).
- (3) A condition attached to the licence under subsection (1)(a) may apply in relation to the premises generally or only in relation to a specified part of the premises.
- (4) A licensing authority may not attach a condition to a premises licence which prevents compliance with a condition of the operating licence which authorises the holder to carry out the activity in respect of which the premises licence is granted.

### **170 Membership**

A premises licence may not be subject to a condition (whether imposed by virtue of section 167, 168 or 169)—

- (a) requiring all or part of the premises, or any activity taking place on the premises, to be operated or carried on as a club or other body with membership, or
- (b) restricting use of any part of the premises wholly or partly by reference to membership of a club or other body.

### **171 Stakes, &c.**

- (1) A premises licence may not be subject to a condition (whether imposed by virtue of section 167, 168 or 169) imposing limits on—
  - (a) stakes,
  - (b) fees,
  - (c) winnings, or
  - (d) prizes.
- (2) The prohibition in subsection (1)(b) shall not prevent the imposition by virtue of section 167 of a condition about fees for admission to a track.

#### *Specific cases*

### **172 Gaming machines**

- (1) An adult gaming centre premises licence shall, by virtue of this section, authorise the holder—
  - (a) to make up to four Category B gaming machines available for use on the premises,
  - (b) to make any number of Category C gaming machines available for use on the premises, and
  - (c) to make any number of Category D gaming machines available for use on the premises.

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- (2) A family entertainment centre premises licence shall, by virtue of this section, authorise the holder—
- (a) to make any number of Category C gaming machines available for use on the premises, and
  - (b) to make any number of Category D gaming machines available for use on the premises.
- (3) A casino premises licence for a regional casino using at least 40 gaming tables shall by virtue of this section authorise the holder to make gaming machines available for use on the premises provided that—
- (a) each gaming machine is of Category A, B, C or D, and
  - (b) the number of gaming machines—
    - (i) is not more than 25 times the number of gaming tables used in the casino, and
    - (ii) is not more than 1250.
- (4) A casino premises licence for a large casino using at least one gaming table, or for a regional casino using fewer than 40 gaming tables, shall by virtue of this section authorise the holder to make gaming machines available for use on the premises provided that—
- (a) each gaming machine is of Category B, C or D, and
  - (b) the number of gaming machines—
    - (i) is not more than 5 times the number of gaming tables used in the casino, and
    - (ii) is not more than 150.
- (5) A casino premises licence for a small casino using at least one gaming table shall by virtue of this section authorise the holder to make gaming machines available for use on the premises provided that—
- (a) each gaming machine is of Category B, C or D, and
  - (b) the number of gaming machines—
    - (i) is not more than twice the number of gaming tables used in the casino, and
    - (ii) is not more than 80.
- (6) The Secretary of State may by regulations—
- (a) define “gaming table” for the purposes of subsections (3) to (5);
  - (b) provide that a gaming table is to be treated as being used in a casino for the purposes of those subsections only if used—
    - (i) for a specified purpose,
    - (ii) in specified circumstances, and
    - (iii) to a specified extent;
  - (c) provide for a number of tables are to be treated as if they were a single gaming table in specified circumstances.
- (7) A bingo premises licence shall, by virtue of this section, authorise the holder—
- (a) to make up to four Category B gaming machines available for use on the premises,
  - (b) to make any number of Category C gaming machines available for use on the premises, and

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- (c) to make any number of Category D gaming machines available for use on the premises.
- (8) A betting premises licence shall, by virtue of this section, authorise the holder to make up to four gaming machines, each of which must be of Category B, C or D, available for use.
- (9) But subsection (8) applies to a betting premises licence in respect of a track only if the holder also holds a pool betting operating licence.
- (10) A premises licence may not (whether by way of condition or otherwise)—
  - (a) make provision about the number or categories of gaming machine that may be made available for use that contradicts a provision of this section,
  - (b) make provision that contradicts a provision of regulations under section 236, 240 or 241, or
  - (c) make provision of a kind prohibited by regulations under any of those sections.
- (11) The Secretary of State may by order amend a provision of this section so as to vary—
  - (a) the number of machines authorised by a specified kind of premises licence;
  - (b) the category of machines authorised by a specified kind of premises licence.

### **173 Virtual gaming**

- (1) The kinds of premises licence specified in subsection (2) shall by virtue of this section authorise the holder to make facilities available for betting on the outcome of a virtual game, race, competition or other event or process.
- (2) Those kinds of licence are—
  - (a) a casino premises licence, and
  - (b) a betting premises licence.

### **174 Casino premises licence**

- (1) A casino premises licence may be issued only in respect of—
  - (a) a regional casino,
  - (b) a large casino, or
  - (c) a small casino.
- (2) A casino premises licence shall, by virtue of this section and subject to subsections (3) and (4), authorise the holder to use the premises to make available any number of games of chance other than casino games.
- (3) A casino premises licence shall, by virtue of this subsection and subject to subsection (4), authorise the holder, and any person authorised by him in writing, to use the premises for the provision of facilities for—
  - (a) bingo,
  - (b) betting, or
  - (c) both.
- (4) In respect of a small casino, subsection (3) shall not apply in so far as it authorises bingo.

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- (5) The Secretary of State may by order repeal subsection (4) (and this subsection).
- (6) Regulations under section 167 shall, in particular, make provision in relation to casino premises licences imposing limits in respect of machines of a kind that would be gaming machines but for section 235(2)(i); and the limits may, in particular, operate by reference to—
  - (a) the number of machines, or
  - (b) the number of players that the machines are designed or adapted to accommodate.
- (7) Regulations under section 167 or 168 may, in particular, make provision in relation to casino premises licences, or in relation to a class of casino premises licence, for a condition requiring the provision of recreational or other facilities of a specified kind.
- (8) Subsection (7) is without prejudice to the generality of sections 167, 168 and 169.

### **175 Casino premises licence: overall limits**

- (1) No more than one casino premises licence may have effect at any time in respect of regional casinos.
- (2) No more than eight casino premises licences may have effect at any time in respect of large casinos.
- (3) No more than eight casino premises licences may have effect at any time in respect of small casinos.
- (4) The Secretary of State shall, having consulted the Scottish Ministers and the National Assembly for Wales, by order make provision for determining the geographical distribution of casino premises licences within the limits specified in subsections (1) to (3); for which purpose the order shall—
  - (a) specify which licensing authorities may issue casino premises licences of a specified kind, and
  - (b) in respect of each specified authority, specify the number of casino premises licences of each kind issued by the authority that may have effect at any time.
- (5) An application for a casino premises licence may not be made to a licensing authority if subsections (1) to (3) and the order under subsection (4) would prevent the authority from granting the application.
- (6) An application for a provisional statement may not be made to a licensing authority if it relates to a casino and is made at a time when subsections (1) to (3) and the order under subsection (4) would prevent the authority from granting a casino premises licence in response to an application made in reliance on the provisional statement.
- (7) Schedule 9 (which makes provision about the treatment of applications for casino premises licences and provisional statements) shall have effect.
- (8) The Secretary of State may by order—
  - (a) amend any of subsections (1), (2) and (3) so as to substitute a new maximum number of casino premises licences;
  - (b) repeal any of subsections (1), (2) and (3).

## **176 Casino premises licence: access by children**

- (1) The Commission shall issue one or more codes of practice under section 24 about access to casino premises for children and young persons.
- (2) The code or codes issued in accordance with subsection (1) shall, in particular—
  - (a) require the holder of a casino premises licence to take specified steps to ensure that no child or young person enters premises or a part of premises which it would be an offence under section 47 to permit him to enter (“prohibited premises or areas”),
  - (b) for that purpose, require the holder of a casino premises licence to ensure—
    - (i) that each entrance to prohibited premises or to a prohibited area is supervised by one or more persons whose responsibilities include ensuring compliance with the code of practice (“the supervisor”), and
    - (ii) that arrangements are made to require evidence of age to be produced by any person seeking admission to prohibited premises or to a prohibited area unless the supervisor, reasonably, is certain that the person seeking admission is an adult, and
  - (c) make provision about the nature of evidence that may be used for the purpose of arrangements made in accordance with paragraph (b)(ii).
- (3) A casino premises licence shall by virtue of this section be subject to the condition that the licensee ensures compliance with any relevant code of practice issued in accordance with subsection (1).

## **177 Credit**

- (1) This section applies to—
  - (a) casino premises licences, and
  - (b) bingo premises licences.
- (2) A premises licence to which this section applies shall by virtue of this section be subject to the condition that the licensee does not—
  - (a) give credit in connection with gambling authorised by the licence, or
  - (b) participate in, arrange, permit or knowingly facilitate the giving of credit in connection with gambling authorised by the licence.
- (3) But the condition in subsection (2) shall not prevent the licensee from permitting the installation and use on the premises of a machine enabling cash to be obtained on credit from a person (the “credit provider”) provided that—
  - (a) the licensee has no other commercial connection with the credit provider in relation to gambling,
  - (b) the licensee neither makes nor receives any payment or reward (whether by way of commission, rent or otherwise) in connection with the machine, and
  - (c) any conditions about the nature, location or use of the machine attached by virtue of section 167, 168 or 169 are complied with.
- (4) In this section “credit” has the same meaning as in section 81.

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*Status: This is the original version (as it was originally enacted).*

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### **178 Door supervision**

- (1) Where a condition for door supervision is attached to a premises licence (whether by virtue of section 167, 168 or 169) subsection (3) shall apply in relation to the licence.
- (2) In subsection (1) “condition for door supervision” means a condition requiring that one or more persons be responsible for guarding the premises against unauthorised access or occupation, against outbreaks of disorder or against damage.
- (3) If the person carrying out the guarding mentioned in subsection (2) is required by the Private Security Industry Act 2001 (c. 12) to hold a licence under that Act authorising the guarding, the requirement under that Act shall be treated for the purposes of this Act as if it were a condition of the premises licence attached by virtue of this section.

### **179 Pool betting on track**

- (1) A betting premises licence in respect of a track may not authorise the acceptance of bets by way of pool betting except in a case to which subsection (2) applies.
- (2) This subsection applies to the acceptance of bets, by way of pool betting on horse-racing or dog-racing—
  - (a) by the holder of the betting premises licence, or
  - (b) in accordance with arrangements made by him.
- (3) The Secretary of State may by order amend this section so as to—
  - (a) add an exception to subsection (1),
  - (b) amend an exception to subsection (1), or
  - (c) remove an exception to subsection (1).

### **180 Pool betting on dog races**

- (1) A betting premises licence in respect of premises other than a dog track shall by virtue of this section be subject to the condition that pool bets may not be accepted in reliance on the licence in respect of dog-racing other than in accordance with arrangements made with the occupier of the dog track on which the racing takes place.
- (2) The Secretary of State may by order repeal this section.
- (3) A repeal by order under subsection (2) shall cause the condition attached by subsection (1) to premises licences in force on the date of the repeal to lapse in respect of anything done on or after the date of the repeal.
- (4) This section shall cease to have effect at the end of 31st December 2012 (and the condition attached by subsection (1) to premises licences in force on that date shall lapse in respect of anything done after that date).

### **181 Betting machines**

- (1) A condition of a betting premises licence may relate to—
  - (a) the number of machines used on the premises for the purpose of making or accepting bets;
  - (b) the nature of those machines;
  - (c) the circumstances in which those machines are made available for use.



- (2) A condition of a casino premises licence may relate to—
- (a) the number of machines used on the premises for the purpose of making or accepting bets;
  - (b) the nature of those machines;
  - (c) the circumstances in which those machines are made available for use.
- (3) In this section “condition” means a condition imposed by virtue of section section 167, 168 or 169.

## **182 Exclusion of children from track areas**

- (1) A premises licence in respect of a track shall by virtue of this section be subject to the condition that the licensee shall ensure that children and young persons are excluded from—
- (a) any area where facilities for betting are provided, and
  - (b) any area where a gaming machine, other than a Category D machine, is situated.
- (2) But subsection (1)(a)—
- (a) shall not apply to a dog track on a day on which dog-racing takes place, or is expected to take place, on the track, and
  - (b) shall not apply to a horse-race course on a day on which horse-racing takes place, or is expected to take place, on the course.
- (3) For the purposes of this section a reference to the area where facilities are provided or where a machine is situated is a reference to any place in which it is possible to take advantage of the facilities or use the machine.
- (4) The Secretary of State may by order amend this section so as to—
- (a) provide an additional exception to subsection (1)(a),
  - (b) remove an exception to subsection (1)(a), or
  - (c) amend an exception to subsection (1)(a).

## **183 Christmas Day**

A premises licence shall, by virtue of this section, be subject to the condition that the premises shall not be used to provide facilities for gambling on Christmas Day.

### *Maintenance*

## **184 Annual fee**

- (1) The holder of a premises licence—
- (a) shall pay a first annual fee to the licensing authority within such period after the issue of the licence as may be prescribed, and
  - (b) shall pay an annual fee to the licensing authority before each anniversary of the issue of the licence.
- (2) In this section “annual fee” means a fee of such amount as may be prescribed; and “prescribed” means prescribed by regulations made—

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- (a) in relation to premises licences issued by authorities in England and Wales, by the Secretary of State, and
  - (b) in relation to premises licences issued by authorities in Scotland, by the Scottish Ministers.
- (3) Regulations prescribing the annual fee may, in particular, make different provision for—
- (a) licences authorising different classes of activity, or
  - (b) different circumstances.
- (4) The Secretary of State may by regulations—
- (a) require a licensing authority to refund a prescribed part of an annual fee paid under this section where a premises licence ceases to have effect otherwise than on or immediately before an anniversary of its issue,
  - (b) require a licensing authority to refund a prescribed part of an annual fee paid under this section if a premises licence is altered under section 186, 187, 188 or 202 and the annual fee for the licence as altered is less than the annual fee for the licence before alteration, and
  - (c) require a licensee to pay an additional amount by way of annual fee if a premises licence is altered under section 186, 187, 188 or 202 and the annual fee for the licence as altered is more than the annual fee for the licence before alteration.
- (5) In relation to premises licences issued by authorities in Scotland, subsection (4) shall have effect as if the reference to the Secretary of State were a reference to the Scottish Ministers.
- (6) Subsection (1)(b) does not apply in relation to an anniversary of the issue of a licence on or immediately before which the licence expires in accordance with regulations under section 191(1).

## **185 Availability of licence**

- (1) The holder of a premises licence shall—
- (a) keep the licence on the premises, and
  - (b) arrange for the licence to be made available on request to—
    - (i) a constable,
    - (ii) an enforcement officer, or
    - (iii) an authorised local authority officer.
- (2) A person commits an offence if he fails without reasonable excuse to comply with subsection (1).
- (3) A person guilty of an offence under subsection (2) shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

## **186 Change of circumstance**

- (1) If the holder of a premises licence ceases to reside or attend at the address specified in the licence under section 151(1)(b) he shall as soon as is reasonably practicable—
- (a) notify the licensing authority, and

- (b) inform the licensing authority of a home or business address at which he resides or attends.
- (2) The Secretary of State may make regulations requiring the holder of a premises licence—
- (a) to notify the licensing authority of any change of circumstance of a prescribed kind in relation to him or to an authorised activity, and
  - (b) to give the licensing authority prescribed details of the change.
- (3) If a change of circumstance notified under or by virtue of this section falsifies information contained in the premises licence in accordance with section 151, the notification must be accompanied by—
- (a) the prescribed fee, and
  - (b) either—
    - (i) the licence, or
    - (ii) an application under section 190 for a copy of the licence.
- (4) Where notification is accompanied by the licence, the licensing authority shall—
- (a) make such alteration to the information contained in the licence as appears to them to be required by the change in circumstance, and
  - (b) return the licence to the licensee.
- (5) Where the notification is accompanied by an application for a copy of the licence, the licensing authority shall, if they grant the application, issue the copy in a form which appears to them to reflect the change in circumstance.
- (6) The holder of a premises licence commits an offence if he fails without reasonable excuse to comply with a provision of this section or of regulations made under this section.
- (7) A person guilty of an offence under subsection (6) shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.
- (8) This section does not prevent the imposition of a requirement to notify the licensing authority of a specified change of circumstance by way of the attachment of a condition to a premises licence.
- (9) In subsection (3)(a) “prescribed” means—
- (a) in relation to notification given to authorities in England and Wales, prescribed by regulations made by the Secretary of State, and
  - (b) in relation to notifications given to authorities in Scotland, prescribed by regulations made by the Scottish Ministers.

### **187 Application to vary licence**

- (1) The holder of a premises licence may apply to the licensing authority to vary the licence by—
- (a) adding, amending or removing an authorised activity,
  - (b) amending another detail of the licence,
  - (c) excluding a condition attached by virtue of section 168, or
  - (d) adding, amending or removing a condition attached to the licence under section 169.

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- (2) A licence may not be varied under this section so as to relate to premises to which it did not previously relate.
- (3) The provisions of this Part shall apply in relation to an application for variation as they apply in relation to an application for a premises licence—
  - (a) subject to the provisions of this section, and
  - (b) with any other necessary modifications.
- (4) Regulations under this Part which relate to an application for a premises licence may make—
  - (a) provision which applies only in the case of an application for variation;
  - (b) provision which does not apply in the case of an application for variation;
  - (c) different provision in relation to an application for variation from that made in relation to an application for a premises licence;
  - (d) different provision in relation to applications for variations of different kinds.
- (5) An application for variation must (in addition to anything required by section 159) be accompanied by a statement of the variation sought.
- (6) An application for variation must (in addition to anything required by section 159) also be accompanied by —
  - (a) the licence to be varied, or
  - (b) both—
    - (i) a statement explaining why it is not reasonably practicable to produce the licence, and
    - (ii) an application under section 190 for the issue of a copy of the licence.
- (7) In granting an application for variation a licensing authority—
  - (a) shall specify a time when the variation shall begin to have effect, and
  - (b) may make transitional provision.

## **188 Transfer**

- (1) A person may apply to a licensing authority for a premises licence to be transferred to him.
- (2) The provisions of this Part shall apply in relation to an application for transfer as they apply in relation to an application for a premises licence—
  - (a) subject to the provisions of this section and section 189, and
  - (b) with any other necessary modifications.
- (3) An application for transfer must (in addition to anything required by section 159)—
  - (a) specify the time when the transfer is to take effect, and
  - (b) be accompanied by a written statement by the licensee consenting to the transfer.
- (4) A licensing authority shall grant an application for transfer unless they think it would be wrong to do so having regard to representations made under section 161 (as applied by subsection (2) above).
- (5) On the grant of an application for the transfer of a premises licence the licensing authority—

- (a) shall alter the licence so that the applicant for the transfer becomes the licensee,
  - (b) shall specify in the licence the time when the transfer takes effect (being either the time specified in the application under subsection (3) above or, if later, the time when the application is granted), and
  - (c) shall make such other alteration of the licence as appears to them to be required (which may, in particular, include an alteration to reflect a decision of the authority under section 169 as applied by subsection (2) above to make new or varied provision for the attachment or exclusion of conditions).
- (6) A licence to which a condition is attached under section 169 for the purpose of giving effect to an agreement entered into under paragraph 5(3)(b) of Schedule 9 (“the original agreement”) shall not be transferred unless—
- (a) the transferee enters into an agreement (“the new agreement”) which appears to the licensing authority to have substantially the same effect as the original agreement, and
  - (b) the condition is altered so as to give effect to the new agreement.

### **189 Transfer: supplemental**

- (1) If an application for transfer under section 188 states that the applicant has failed to contact the licensee having taken all reasonable steps to do so, the licensing authority shall—
- (a) disapply section 188(3)(b) and take all reasonable steps to notify the licensee, or
  - (b) determine not to disapply section 188(3)(b) and notify the applicant of their determination and the reasons for it.
- (2) An application for transfer must (in addition to anything required by section 159) be accompanied by—
- (a) the licence, or
  - (b) both—
    - (i) a statement explaining why it is not reasonably practicable to produce the licence, and
    - (ii) an application by the licensee under section 190 for the issue of a copy of the licence.
- (3) In relation to an application for transfer to which subsection (1) applies, for the purposes of any application under section 190 required in accordance with subsection (2)(b)(ii) above—
- (a) the application under that section shall be made by the applicant for transfer, and
  - (b) a reference to the licence being lost, stolen or damaged shall be treated as a reference to the licence being unavailable to the applicant for transfer.
- (4) Regulations under section 160, as they have effect in relation to applications for transfer by virtue of section 188(2), may require notice to be given to specified responsible authorities (and not to all responsible authorities).
- (5) Section 161 shall have effect in relation to an application for transfer with the omission of the reference to interested parties.

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- (6) If an application for the transfer of a premises licence includes a request that this subsection apply, the licence shall have effect as if the applicant for transfer were the licensee during the period—
- (a) beginning with the receipt of the application for transfer by the licensing authority, and
  - (b) ending with the determination of the application by the licensing authority.

## **190 Copy of licence**

- (1) Where a premises licence issued, or a summary given, under section 164 is lost, stolen or damaged, the licensee may apply to the licensing authority for a copy.
- (2) An application under subsection (1) must be accompanied by the prescribed fee.
- (3) A licensing authority shall consider an application under this section as soon as is reasonably practicable and shall grant it if satisfied—
  - (a) that the licence or summary to which the application relates has been lost, stolen or damaged, and
  - (b) where the licence or summary has been lost or stolen, that the loss or theft has been reported to the police.
- (4) As soon as is reasonably practicable after granting an application under this section a licensing authority shall issue a copy of the licence or summary to the applicant—
  - (a) certified by the authority as a true copy, and
  - (b) in, or in relation to, the form in which the licence had effect before the loss, theft or damage.
- (5) A copy of a licence or summary issued under this section shall be treated as if it were the licence or summary.
- (6) In subsection (2) “prescribed” means—
  - (a) in relation to applications to authorities in England and Wales, prescribed by regulations made by the Secretary of State, and
  - (b) in relation to applications to authorities in Scotland, prescribed by regulations made by the Scottish Ministers.

### *Duration*

## **191 Initial duration**

- (1) The Secretary of State may by regulations prescribe a period at the end of which premises licences expire (unless they cease to have effect earlier in accordance with a provision of this Part).
- (2) Regulations under this section may make provision about renewal (and may, in particular, apply or make provision similar to any provision of this Part about an application for a premises licence).
- (3) Regulations under this section may make provision which applies to licences issued before the regulations are made.

- (4) If the Secretary of State does not prescribe a period under this section in respect of a premises licence, it shall continue to have effect unless and until it ceases to have effect in accordance with a provision of this Part.

## **192 Surrender**

- (1) A premises licence shall cease to have effect if the licensee—
- (a) notifies the licensing authority of his intention to surrender the licence, and
  - (b) gives the licensing authority either—
    - (i) the licence, or
    - (ii) a written statement explaining why it is not reasonably practicable to produce the licence.
- (2) As soon as is reasonably practicable after receipt of notification under subsection (1)
- (a) the licensing authority shall notify—
    - (a) the Commission,
    - (b) either—
      - (i) in England and Wales, the chief officer of police for any area in which the premises are wholly or partly situated, or
      - (ii) in Scotland, the chief constable of the police force maintained for a police area in which the premises are wholly or partly situated, and
    - (c) Her Majesty's Commissioners of Customs and Excise.

## **193 Revocation for failure to pay fee**

- (1) Where the holder of a premises licence fails to pay the annual fee in accordance with regulations under section 184 the licensing authority shall revoke the licence.
- (2) But the licensing authority may disapply subsection (1) if they think that a failure to pay is attributable to administrative error.

## **194 Lapse**

- (1) In the case of a premises licence issued to an individual, the licence shall lapse if—
- (a) the licensee dies,
  - (b) the licensee becomes, in the opinion of the licensing authority as notified to the licensee, incapable of carrying on the licensed activities by reason of mental or physical incapacity,
  - (c) the licensee becomes bankrupt (within the meaning of section 381 of the Insolvency Act 1986 (c. 45)), or
  - (d) sequestration of the licensee's estate is awarded under section 12(1) of the Bankruptcy (Scotland) Act 1985 (c. 66).
- (2) In any other case a premises licence shall lapse if the licensee—
- (a) ceases to exist, or
  - (b) goes into liquidation (within the meaning of section 247(2) of the Insolvency Act 1986).
- (3) If a licensing authority become aware that a premises licence issued by them has lapsed, they shall as soon as is reasonably practicable notify—

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- (a) the Commission,
- (b) either—
  - (i) in England and Wales, the chief officer of police for any area in which the premises are wholly or partly situated, or
  - (ii) in Scotland, the chief constable of the police force maintained for a police area in which the premises are wholly or partly situated, and
- (c) Her Majesty's Commissioners of Customs and Excise.

## **195 Reinstatement**

- (1) This section applies where a premises licence lapses under section 194.
- (2) During the period of six months beginning with the date of the lapse of the premises licence a person may apply to the licensing authority for the licence to be reinstated with the applicant as the licensee.
- (3) The provisions of this Part shall apply in relation to an application for reinstatement as they apply in relation to an application for a premises licence—
  - (a) subject to the provisions of this section and section 196, and
  - (b) with any other necessary modifications.
- (4) An application for reinstatement must (in addition to anything required by section 159) request that the reinstatement take effect upon the application being granted.
- (5) A licensing authority shall grant an application for reinstatement unless they think it would be wrong to do so having regard to representations made under section 161 (as applied by subsection (3) above).
- (6) On the grant of an application for the reinstatement of a premises licence the licensing authority—
  - (a) shall alter the licence so that the applicant for reinstatement becomes the licensee,
  - (b) shall specify in the licence that the reinstatement takes effect at the time when the application is granted, and
  - (c) shall make such other alteration of the licence as appears to them to be required (which may, in particular, include an alteration to reflect a decision of the authority under section 169 as applied by subsection (3) above to make new or varied provision for the attachment or exclusion of conditions).

## **196 Reinstatement: supplemental**

- (1) An application under section 195 for the reinstatement of a premises licence must (in addition to anything required by section 159) be accompanied by—
  - (a) the licence, or
  - (b) both—
    - (i) a statement explaining why it is not reasonably practicable to produce the licence, and
    - (ii) an application under section 190 for the issue of a copy of the licence.
- (2) In the case of an application under section 190 made in accordance with subsection (1)(b)(ii) above—
  - (a) the application shall be made by the applicant for reinstatement, and



- (b) a reference to the licence being lost, stolen or damaged shall be treated as a reference to the licence being unavailable to the applicant for reinstatement.
- (3) Regulations under section 160, as they have effect in relation to applications for reinstatement by virtue of section 195(3), may require notice to be given to specified responsible authorities (and not to all responsible authorities).
- (4) Section 161 shall have effect in relation to an application for reinstatement with the omission of the reference to interested parties.
- (5) Where an application is made under section 195 for the reinstatement of a premises licence, the licence shall have effect as if the applicant for reinstatement were the licensee during the period—
  - (a) beginning with the receipt of the application for reinstatement by the licensing authority, and
  - (b) ending with the determination of the application by the licensing authority.

### *Review*

#### **197 Application for review**

- (1) A responsible authority or interested party may apply to the licensing authority for a review by the authority of a premises licence.
- (2) An application must—
  - (a) be made in the prescribed form and manner,
  - (b) specify the grounds on which the review is sought, and
  - (c) contain or be accompanied by the prescribed information or documents.
- (3) The Secretary of State may make regulations requiring an applicant—
  - (a) to give notice of his application to the licensee;
  - (b) to give notice of his application to the responsible authorities in relation to the premises.
- (4) The Secretary of State may make regulations requiring the licensing authority to whom an application is made under this section to publish notice of the application.
- (5) Regulations under subsection (2), (3) or (4) shall include provision—
  - (a) about the manner and form in which notice is to be published or given,
  - (b) about the period of time within which notice is to be published or given, and
  - (c) for the consequences of failure to comply with the regulations.
- (6) Regulations by virtue of subsection (5)(a) shall, in particular, require a notice to specify a period of time during which representations about the application may be made to the licensing authority by—
  - (a) the licensee,
  - (b) a responsible authority, or
  - (c) an interested party.
- (7) In relation to applications to authorities in Scotland, subsections (3) and (4) shall have effect as if the references to the Secretary of State were references to the Scottish Ministers.

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## **198 Rejection of application**

- (1) A licensing authority may reject an application under section 197 for the review of a premises licence if they think that the grounds on which the review is sought—
  - (a) do not raise an issue relevant to the principles to be applied in accordance with section 153,
  - (b) are frivolous,
  - (c) are vexatious,
  - (d) will certainly not cause the authority to wish to take action of a kind specified in section 202(1),
  - (e) are substantially the same as the grounds specified in an earlier application under section 197 in respect of the premises licence, or
  - (f) are substantially the same as representations made under section 161 in relation to the application for the premises licence.
- (2) In determining whether to exercise the power to reject an application under section 197 in accordance with subsection (1)(e) or (f), a licensing authority shall consider the length of time that has elapsed since the making of the earlier application or since the making of the representations under section 161.
- (3) If a licensing authority consider that paragraphs (a) to (f) apply to some but not all of the grounds on which a review is sought, they may reject the application in so far as it relies on grounds to which those paragraphs apply.
- (4) In this section a reference to section 161 includes a reference to that section as applied by section 187(3).

## **199 Grant of application**

- (1) This section applies where an application for review has been made to a licensing authority under section 197.
- (2) If, or in so far as, the licensing authority do not reject the application under section 198 they shall grant it.

## **200 Initiation of review by licensing authority**

- (1) A licensing authority may review in relation to premises licences of a particular class—
  - (a) the use made of premises, and
  - (b) in particular, arrangements made by licensees to ensure compliance with conditions attached under section 167, 168 or 169 or by a provision of this Part.
- (2) A licensing authority may review any matter connected with the use of premises in reliance on a premises licence if the authority—
  - (a) have reason to suspect that the premises may have been used in purported reliance on a licence but not in accordance with a condition of the licence, or
  - (b) for any reason (which may relate to the receipt of a complaint about the use of the premises) think that a review would be appropriate.
- (3) Before reviewing a premises licence under subsection (2) the licensing authority shall—

- (a) give notice of their intention to hold the review to the licensee, and
  - (b) publish notice of their intention to hold the review.
- (4) The Secretary of State may make regulations about—
- (a) the manner and form in which notice under subsection (3) is to be given or published, and
  - (b) the period of time within which notice is to be given or published.
- (5) Regulations by virtue of subsection (4)(a) shall, in particular, require a notice to specify a period of time during which representations about the review may be made to the licensing authority by—
- (a) the licensee,
  - (b) a responsible authority, or
  - (c) an interested party.
- (6) In relation to notice given by a licensing authority in Scotland, subsection (4) shall have effect as if the reference to the Secretary of State were a reference to the Scottish Ministers.

## **201 Review**

- (1) This section applies where a licensing authority—
- (a) have granted an application for a review of a premises licence under section 199, or
  - (b) have given notice under section 200 of their intention to hold a review of a premises licence.
- (2) As soon as is reasonably practicable after the expiry of any period for representations prescribed under section 197(6) or 200(5), the licensing authority shall review the premises licence.
- (3) The purpose of the review shall be to consider whether to take action of a kind specified in section 202(1) in relation to the licence.
- (4) In conducting a review of a premises licence a licensing authority shall hold a hearing unless—
- (a) the applicant for the review (if there is one), and each person who has made representations about the review under section 197(6) or 200(5), have consented to the conduct of the review without a hearing, or
  - (b) the licensing authority think that each representation made about the review in accordance with section 197(6) or 200(5)—
    - (i) is frivolous,
    - (ii) is vexatious, or
    - (iii) will certainly not influence the review.
- (5) In considering whether to take action of a kind specified in section 202(1) the licensing authority shall have regard (in addition to the matters specified in section 153) to—
- (a) any representations made in accordance with section 197(6) or 200(5),
  - (b) any representations made at the hearing of the review (if there is one), and
  - (c) in the case of a review held in response to an application under section 197, the grounds specified in the application for the review (apart from any in relation to which the application was rejected under section 198(3)).

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## **202 Action following review**

- (1) As a result of a review of a premises licence under section 201 a licensing authority may—
  - (a) revoke the licence;
  - (b) suspend the licence for a specified period not exceeding three months;
  - (c) exclude a condition attached to the licence under section 168 or remove or amend an exclusion;
  - (d) add, remove or amend a condition under section 169.
- (2) If the licensing authority decide to take action of a kind specified in subsection (1) they shall specify the time at which the action shall take effect.
- (3) A licensing authority may, in particular, take action under subsection (1) on the grounds that the licensee has not used the licence.

## **203 Determination**

- (1) As soon as possible after completion of a review of a premises licence under section 201 a licensing authority shall give notice of their decision on the review to—
  - (a) the licensee,
  - (b) the applicant for the review (if any),
  - (c) the Commission,
  - (d) any person who made representations in accordance with section 197 or 200,
  - (e) either—
    - (i) in England and Wales, the chief officer of police for any area in which the premises are wholly or partly situated, or
    - (ii) in Scotland, the chief constable of the police force maintained for a police area in which the premises are wholly or partly situated, and
  - (f) Her Majesty's Commissioners of Customs and Excise.
- (2) A notice under subsection (1)—
  - (a) must be in the prescribed form, and
  - (b) must give the authority's reasons for their decision.

### *Provisional statement*

## **204 Application**

- (1) A person may make an application for a provisional statement in respect of premises—
  - (a) that he expects to be constructed,
  - (b) that he expects to be altered, or
  - (c) that he expects to acquire a right to occupy.
- (2) The provisions of this Part shall apply in relation to an application for a provisional statement as they apply in relation to an application for a premises licence—
  - (a) subject to the provisions of this section and section 205, and
  - (b) with any other necessary modifications.

- (3) An application for a provisional statement shall include such plans and other information in relation to the construction, alteration or acquisition as may be prescribed.
- (4) Sections 152(1)(b) and 159(3) and (5) shall not apply in relation to an application for a provisional statement.

## **205 Effect**

- (1) This section applies where—
  - (a) a licensing authority issue a provisional statement in respect of premises, and
  - (b) an application is made under section 159 for a premises licence in respect of the premises.
- (2) The licensing authority shall disregard any representations made in relation to the application for the premises licence unless they think that the representations—
  - (a) address matters that could not have been addressed in representations in relation to the application for the provisional statement, or
  - (b) reflect a change in the applicant's circumstances.
- (3) The licensing authority may refuse the application, or grant it on terms or conditions not included in the provisional statement, only by reference to matters which—
  - (a) the authority have considered in reliance on subsection (2)(a), or
  - (b) in the authority's opinion reflect a change in the applicant's circumstances.
- (4) But subsections (2) and (3) do not apply in the case of a provisional statement issued in response to an application under section 204(1)(a) or (b) if the licensing authority think that the premises have been constructed or altered otherwise than in accordance with the plans and information included with the application for the provisional statement in accordance with section 204(3).

## *Appeals*

## **206 Rights of appeal**

- (1) Where a licensing authority reject an application under this Part the applicant may appeal.
- (2) Where a licensing authority grant an application under this Part either of the following may appeal—
  - (a) a person who made representations in relation to the application, and
  - (b) the applicant.
- (3) Where a licensing authority take action under section 202 as a result of a review of a premises licence, or determine to take no action as a result of a review, any of the following may appeal—
  - (a) the licensee,
  - (b) a person who made representations in relation to the review,
  - (c) the person (if any) who applied for the review, and
  - (d) the Commission.

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- (4) Where a licensing authority take action or make a determination under section 188(4) or (5) either of the following may appeal—
- (a) the licensee, and
  - (b) the applicant for transfer.

## **207 Process**

- (1) An appeal under section 206 in relation to premises must be instituted—
- (a) in the magistrates' court for a local justice area in which the premises are wholly or partly situated,
  - (b) by notice of appeal given to the designated officer, and
  - (c) within the period of 21 days beginning with the day on which the appellant receives notice of the decision against which the appeal is brought.
- (2) Where an appeal is brought under section 206 the licence holder (or the applicant in the case of an appeal against the grant of an application for a premises licence) shall be a respondent in addition to the licensing authority (unless he is the appellant).
- (3) On an appeal under section 206 the magistrates' court may—
- (a) dismiss the appeal;
  - (b) substitute for the decision appealed against any decision that the licensing authority could have made;
  - (c) remit the case to the licensing authority to decide in accordance with a direction of the court;
  - (d) make an order about costs.
- (4) Section 206 applies to a decision of a licensing authority following remittal under subsection (3)(c) above.
- (5) In relation to premises in Scotland—
- (a) subsection (1)(a) shall have effect as if it referred to a sheriff within whose sheriffdom the premises are wholly or partly situated,
  - (b) subsection (1)(b) shall not have effect,
  - (c) the reference in subsection (3) to the magistrates' court shall have effect as a reference to the sheriff, and
  - (d) the reference in subsection (3) to costs shall have effect as a reference to expenses.

## **208 Stay pending appeal**

- (1) A determination or other action under this Part shall have no effect while an appeal under section 206—
- (a) could be brought, or
  - (b) has been brought and has not yet been either finally determined or abandoned.
- (2) But a licensing authority making a determination or taking other action under this Part may direct that subsection (1) shall not apply (in which case the magistrates' court or sheriff determining an appeal may make any order that it or he thinks appropriate).

## **209 Further appeal**

A party to an appeal under section 206 may appeal on a point of law—

- (a) in relation to premises in England and Wales, to the High Court, or
- (b) in relation to premises in Scotland, to the Court of Session.

### *General*

## **210 Planning permission**

- (1) In making a decision in respect of an application under this Part a licensing authority shall not have regard to whether or not a proposal by the applicant is likely to be permitted in accordance with the law relating to planning or building.
- (2) A decision by a licensing authority under this Part shall not constrain any later decision by the authority under the law relating to planning or building.

## **211 Vehicles and vessels**

- (1) A premises licence—
  - (a) may not be issued in relation to a vehicle (or part of a vehicle),
  - (b) may be issued in relation to all or part of a passenger vessel,
  - (c) may be issued in relation to all or part of a vessel (within the meaning of section 353(1)) situated at a fixed place in or on water, and
  - (d) may not be issued in relation to all or part of a vessel to which neither of paragraphs (b) and (c) applies.
- (2) A premises licence in relation to a vessel may include a condition imposed by virtue of section 169 about the location of the vessel.
- (3) In relation to a vessel, a reference in this Part to a place in which premises are wholly or partly situated shall be construed—
  - (a) in the case of a vessel (within the meaning of section 353(1)) situated at a fixed place in or on water, as a reference to that place,
  - (b) in the case of a vessel which is permanently moored at a place, as a reference to that place,
  - (c) in the case of a vessel which is habitually moored at one place more frequently or for longer periods than at any other place, as a reference to that place, and
  - (d) in any other case, as a reference to any place at which a vessel is moored or is likely to be moored, or to the place in the United Kingdom nearest to any place at which a vessel is or is likely to be, while activities are carried on in the vessel in reliance on a premises licence.
- (4) In relation to a vessel, the following are responsible authorities for the purposes of this Part (in addition to the persons listed in section 157)—
  - (a) a navigation authority, within the meaning of section 221(1) of the Water Resources Act 1991 (c. 57), which has functions in relation to any place where the vessel is or is likely to be while activities are carried on in the vessel in reliance on a premises licence,
  - (b) the Environment Agency,
  - (c) the British Waterways Board, and

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- (d) the Secretary of State.

## 212 Fees

- (1) Regulations under this Part prescribing a fee—
  - (a) may provide for the amount of the fee to be determined by a licensing authority, and
  - (b) may, if they make provision by virtue of paragraph (a), specify constraints on a licensing authority's power to determine the amount of the fee.
- (2) Where provision is made under subsection (1) for the amount of a fee to be determined by a licensing authority, the authority—
  - (a) shall determine the amount of the fee,
  - (b) may determine different amounts for different classes of case specified in the regulations (but may not otherwise determine different amounts for different cases),
  - (c) shall publish the amount of the fee as determined from time to time, and
  - (d) shall aim to ensure that the income from fees of that kind as nearly as possible equates to the costs of providing the service to which the fee relates (including a reasonable share of expenditure which is referable only partly or only indirectly to the provision of that service).
- (3) For the purposes of subsection (2)(d) a licensing authority shall compare income and costs in such manner, at such times and by reference to such periods as the authority, having regard to any guidance issued by the Secretary of State, think appropriate.
- (4) Regulations by virtue of this section may (without prejudice to the generality of section 355)—
  - (a) make provision which applies generally or only to specified authorities or classes of authority,
  - (b) make different provision for different authorities or classes of authority, and
  - (c) make transitional provision in respect of a case where an authority enters or leaves a class.
- (5) A class of authority for the purposes of subsection (4) may, in particular, be defined by reference to categories assigned under section 99 of the Local Government Act 2003 (c. 26).
- (6) This section does not apply to Scotland.

## 213 Interpretation

In this Part—

- (a) “authorised activity”, in relation to a premises licence, means an activity specified under section 151(1)(d),
- (b) “chief officer of police” has the meaning given by section 101(1) of the Police Act 1996 (c. 16),
- (c) a reference to a chief officer's area is a reference to the area in respect of which he has responsibility under that Act,
- (d) “holder”, in relation to a premises licence, means the person to whom the licence is issued,



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- (e) “licensee”, in relation to a premises licence, also means the person to whom the licence is issued,
- (f) “the licensing authority”, in relation to a premises licence, means the authority who issued the licence, and
- (g) “prescribed” means (except where the contrary is provided) prescribed by regulations made by the Secretary of State.