STATUTORY INSTRUMENTS

2005 No. 3027

LICENCES AND LICENSING

The Licensing Act 2003 (Amendment of the Gaming Act 1968) (Transfer of Gaming Machine Permits) Order 2005

Made - - - -	*30th October 2005*
Laid before Parliament	*1st November 2005*
Coming into force - -	*24th November 2005*

It appears to the Secretary of State that it is appropriate to make the amendments set out in this Order.

Accordingly, the Secretary of State makes the following Order in exercise of the powers conferred by section 198(2) of the Licensing Act 2003(**1**):

Citation and commencement

1. This Order may be cited as the Licensing Act 2003 (Amendment of the Gaming Act 1968) (Transfer of Gaming Machine Permits) Order 2005 and shall come into force on 24th November 2005.

Transfer of gaming machine permits for alcohol licensed premises

2.—(1) Schedule 9 to the Gaming Act 1968(**2**) (permits under section 34), as it extends to England and Wales, shall be amended as follows.

(2) At the beginning of paragraph 20(1) there shall be inserted "Subject to paragraph 20ZA,".

(3) After paragraph 20 there shall be inserted—

"**20ZA.**—(1) This paragraph applies where—

(a) a premises licence authorising the supply of alcohol for consumption on particular premises has been granted under paragraph 4 of Schedule 8 to the Licensing Act 2003 (conversion of existing justices' licences to premises licences),

(b) the application for the licence was made by virtue of paragraph 2(3)(b) of that Schedule (application made by a person with the consent of the existing licence holder), and

(**1**) 2003 c. 17.

(**2**) 1968 c. 65. The Gaming Act 1968 is to be repealed by the Gambling Act 2005 (c. 19), section 356(4) and Schedule 17, on a date to be appointed by order made under section 358(1) of that Act.

(c) a permit granted by the licensing justices has effect in respect of the premises immediately before the premises licence takes effect.

(2) This paragraph also applies where—

(a) a premises licence authorising the supply of alcohol for consumption on particular premises has been granted under section 18 of the Licensing Act 2003 (determination of application for premises licence) before 24th November 2005,

(b) a justices' licence granted under the Licensing Act 1964(**3**) has effect in respect of the premises immediately before that day ("the existing licence"),

(c) the application for the premises licence was made by a person other than the holder of the existing licence, and

(d) a permit granted by the licensing justices has effect in respect of the premises immediately before the premises licence takes effect.

(3) The permit is transferred, at the time the premises licence takes effect, to the holder of that licence (and, accordingly, does not cease to have effect at that time under paragraph 20(1)(a)).

(4) Subject to that, the permit continues to have effect in accordance with this Schedule.".

Richard Caborn
Minister of State
Department for Culture, Media and Sport

30th October 2005

(**3**) 1964 c. 26. The Licensing Act 1964 is repealed by the Licensing Act 2003, section 199 and Schedule 7.

EXPLANATORY NOTE

(This note is not part of the Order)

By virtue of paragraph 20(1) of Schedule 9 to the Gaming Act 1968, a section 34 permit (authorising the provision of gaming machines) is not transferable, and, in the case of alcohol licensed premises, ceases to have effect if the holder of the permit ceases to be the holder of the relevant alcohol licence.

Article 2 of this Order amends Schedule 9 to disapply the effect of paragraph 20(1) in the particular circumstance of a conversion under Schedule 8 to the Licensing Act 2003 of a justices' licence to a premises licence under that Act, where the person holding the licence is different in each case. Under the amendments made by article 2 any associated section 34 permit in force at the time when the premises licence takes effect is transferred to the holder of that licence.

The amendments made by article 2 also apply to a premises licence granted under section 18 of the 2003 Act before 24th November 2005 (being the second appointed day as appointed by the Licensing Act 2003 (Second Appointed Day) Order 2005 (S.I.2005/2091)). Where the licence holder is different from the person holding the justices' licence in respect of the premises immediately before the second appointed day, the effect of the amendments is to transfer any associated section 34 permit to the holder of the premises licence when that licence takes effect.

No other change is made to the permit, and Schedule 3 continues to apply to the permit in all other respects. The duration of the permit remains unchanged by this order.