

2007 No. 504

BETTING, GAMING AND LOTTERIES

**The Club Gaming and Club Machine Permits (Scotland)
Regulations 2007**

Made - - - - *1st November 2007*

Coming into force - - *2nd November 2007*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 285(1) and 355(1) of the Gambling Act 2005(a) and all other powers enabling them to do so.

In accordance with section 285(1) of that Act, the Regulations are made with the consent of the Secretary of State.

In accordance with section 355(9) of that Act, a draft of the Regulations has been laid before and approved by resolution of the Scottish Parliament.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Club Gaming and Club Machine Permits (Scotland) Regulations 2007 and come into force on the day after the day on which they are made.

(2) These Regulations extend to Scotland only.

Interpretation

2. In these Regulations, except where the context otherwise requires—

“the Act” means the Gambling Act 2005;

“the 1968 Act” means the Gaming Act 1968(b);

“the 1976 Act” means the Licensing (Scotland) Act 1976(c);

“existing Part 2 operator” means a person who is registered under Part 2 of the 1968 Act (a “Part 2 registration”) and whose application under these Regulations—

(a) relates to the same or substantially the same premises as those to which the Part 2 registration relates, and

(b) is made before the date which is “the relevant date” in terms of paragraph 80(3) to (5) of Schedule 4 to the Gambling Act 2005 (Commencement No. 6 and Transitional Provisions) Order 2006(d);

(a) 2005 c.19.

(b) 1968 c.65; this Act was wholly repealed (subject to savings made by order) by the Gambling Act 2005, Schedule 17.

(c) 1976 c.66; this Act is wholly repealed by the Licensing (Scotland) Act 2005 (asp 16), schedule 7 but as yet only the repeal of certain sections from the 1976 Act is in force.

(d) S.I. 2006/3272, amended by S.I. 2007/1157 and 1527.

“existing Part 3 operator” means a person who is registered under Part 3 of the 1968 Act (a “Part 3 registration”) and whose application under these Regulations—

- (a) relates to the same or substantially the same premises as those to which the Part 3 registration relates, and
- (b) is made before the date which is “the relevant date” in terms of paragraph 88(3) to (5) of Schedule 4 to the Gambling Act 2005 (Commencement No. 6 and Transitional Provisions) Order 2006;

“Licensing Board” means a Board continued in existence by or established under section 5 of the Licensing (Scotland) Act 2005(a);

“relevant alcohol licence” means any licence granted under section 9(1) of the 1976 Act provided it is not an off-sale licence.

Making of application

3.—(1) A members’ club or miners’ welfare institute may apply to a Licensing Board for a club gaming permit if it is a club or institute to which paragraph (3) applies.

(2) A members’ club, commercial club or miners’ welfare institute may apply to a Licensing Board for a club machine permit if it is a club or institute to which paragraph (3) applies.

(3) This paragraph applies to a members’ club, commercial club or miners’ welfare institute which holds—

- (a) a certificate of registration under section 105 of the 1976 Act(b), or
- (b) a relevant alcohol licence.

Form of application

4.—(1) An application for a permit must—

- (a) be made to the Licensing Board in the area of which the premises are wholly or partly situated,
- (b) specify the premises in relation to which the permit is sought, and
- (c) be made in the form set out in Schedule 1.

(2) The first page of the form prescribed in Schedule 1 may include any symbol or logo which is commonly used by a Licensing Board to identify documents produced by it.

Documents to accompany application

5. Where an application is made by an existing Part 2 or Part 3 operator, the application must be accompanied by a copy of—

- (a) the applicant’s registration certificate within the meaning of paragraph 16(1) of Schedule 4 to the 1968 Act, if the applicant is an existing Part 2 operator, or
- (b) a copy of the certificate issued to the applicant under paragraph 21 of Schedule 7 to the 1968 Act, if the applicant is an existing Part 3 operator.

Application fee

6. The fee to accompany an application is—

- (a) £100 where the application is made by an existing Part 2 or Part 3 operator,
- (b) £200 in any other case.

(a) 2005 asp 16.

(b) Section 105 was amended by the Local Government etc. (Scotland) Act 1994 (c.39), Schedule 13, paragraph 106(7) and the Fire (Scotland) Act 2005 (asp 5), schedule 3, paragraph 8(2)(c).

Notification of application

7.—(1) Within 7 days of making an application for a permit, a club or institute must send a copy of the application and of any accompanying documents to—

- (a) the Commission, and
- (b) the chief constable for any police area in which the premises are wholly or partly situated.

(2) If a club or institute fails to comply with paragraph (1), the application, and any permit issued in response to it, are to have no effect.

Objections

8.—(1) A person who receives a copy of an application for a permit in accordance with regulation 7(1) may object to the application within the period of 28 days beginning on the date on which the application was made to the Licensing Board.

(2) An objection under paragraph (1) is made by sending to the Licensing Board two copies of a written statement setting out the reasons for the objection.

Consideration of application

9.—(1) The Licensing Board to whom an application for a permit is made must consider the application and—

- (a) grant it, or
- (b) refuse it.

(2) A Licensing Board may refuse an application for a permit only on one or more of the following grounds (having regard to the matters mentioned in regulation 23(1))—

- (a) that the applicant is not—
 - (i) in the case of an application for a club gaming permit, a members' club or a miners' welfare institute, or
 - (ii) in the case of an application for a club machine permit, a members' club, a commercial club or a miners' welfare institute,
- (b) that the premises on which the applicant conducts its activities are used wholly or mainly by children, by young persons or by both,
- (c) that an offence, or a breach of a condition of a permit, has been committed in the course of gaming activities carried on by the applicant,
- (d) that a permit held by the applicant has been cancelled during the period of 10 years ending with the date of the application, or
- (e) that an objection to the application has been made under regulation 8.

(3) If a Licensing Board is satisfied in relation to an application for a permit of the matters specified in paragraph (2)(a) or (b), it must refuse the application.

(4) Subject to paragraph (5), before refusing an application for a permit a Licensing Board must hold a hearing to consider the application and any objection made under regulation 8.

(5) A Licensing Board may dispense with the requirement for a hearing with the consent of—

- (a) the applicant, and
- (b) any person who has made (and not withdrawn) an objection under regulation 8.

Action following grant or refusal of application

10.—(1) Where a Licensing Board grants an application for a permit, it must as soon as is reasonably practicable—

- (a) give notice of its decision and, where an objection was made under regulation 8, of the reasons for it to—
 - (i) the applicant,
 - (ii) the Commission, and
 - (iii) the chief constable for any police area in which the premises specified in the application are wholly or partly situated, and
- (b) issue the permit to the applicant.

(2) A Licensing Board may not attach conditions to a permit.

(3) Where a Licensing Board refuses an application for a permit, it must as soon as is reasonably practicable give notice of its decision and the reasons for it to—

- (a) the applicant,
- (b) the Commission, and
- (c) the chief constable for any police area in which the premises specified in the application are wholly or partly situated.

Form of permit

11.—(1) A club gaming permit must be in the form set out in Schedule 2.

(2) A club machine permit must be in the form set out in Schedule 3.

Application of regulations

12. Regulations 13 to 21 apply in respect of a permit which—

- (a) has been issued under regulation 10(1)(b), or
- (b) has been issued under Schedule 12 to the Act to a club or institute which now holds a certificate of registration under section 105 of the 1976 Act or a relevant alcohol licence.

Keeping and production of permit

13.—(1) The holder of a permit must keep it on the premises to which it relates.

(2) An occupier of premises to which a permit relates commits an offence if without reasonable excuse that person fails to produce the permit on request for inspection by—

- (a) a constable, or
- (b) an enforcement officer.

(3) A person guilty of an offence under paragraph (2) is liable on summary conviction to a fine not exceeding level 2 on the standard scale.

Annual fees

14.—(1) The holder of a permit—

- (a) must pay a first annual fee of £50 to the issuing Licensing Board in accordance with paragraph (3) or (4), and
- (b) must pay an annual fee of £50 to the issuing Licensing Board before each anniversary of the issue of the permit.

(2) Paragraph (1)(b) does not apply in relation to an anniversary of the issue of a permit immediately before the permit expires in accordance with regulation 17(1).

(3) Where a permit comes into effect on the issue date, the first annual fee for the permit shall be paid within 30 days after that date.

(4) Where a permit specifies that it is to come into effect on a date after the issue date, the first annual fee for the permit shall be paid within—

- (a) the relevant period, or
 - (b) 12 months,
- after the issue date, whichever is sooner.

(5) In this regulation—

“the issue date” means the date on which a permit is issued, and

“the relevant period”, in relation to a permit, means the period which is equal to the sum of—

- (a) the period between the issue date and the date specified in the permit as that on which it is to come into effect, and
- (b) 30 days.

Variation of permit

15.—(1) If information contained in a permit ceases to be accurate, the holder of the permit is as soon as is reasonably practicable to apply to the issuing Licensing Board to have the permit varied.

(2) An application under paragraph (1) must be accompanied by—

- (a) a fee of £100, and
- (b) either—
 - (i) the permit, or
 - (ii) a statement explaining why it is not reasonably practicable to produce the permit.

(3) The Licensing Board to which an application is made under paragraph (1) is to issue a copy of the permit varied in accordance with the application (and the copy is to be treated as if it were the original permit).

(4) If the Licensing Board thinks that it would refuse an application for the permit were it made anew, it may—

- (a) refuse the application for variation, and
- (b) cancel the permit.

(5) Regulations 9(4) and (5), 10(3) and 21 apply in relation to a decision under paragraph (4) as they apply in relation to a decision to refuse an application for a permit (and regulation 18 is not to apply).

(6) The holder of a permit commits an offence if without reasonable excuse that person fails to comply with paragraph (1).

(7) A person guilty of an offence under paragraph (6) is liable on summary conviction to a fine not exceeding level 2 on the standard scale.

Permit lost, stolen or damaged

16.—(1) Where a permit is lost, stolen or damaged, the holder may apply to the issuing Licensing Board for a copy.

(2) An application under paragraph (1) must be accompanied by a fee of £15.

(3) A Licensing Board must grant an application under paragraph (1) if satisfied—

- (a) that the permit has been lost, stolen or damaged, and
- (b) where the permit 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 paragraph (1), a Licensing Board is to issue a copy of the permit certified by the Board as a true copy (and the copy is to be treated as if it were the original permit).

Duration of permit

17.—(1) A permit is to cease to have effect at the end of the period of 10 years beginning with the date on which it is issued unless—

- (a) it ceases to have effect before that time in accordance with a provision of these Regulations, or
- (b) it is renewed in accordance with regulation 20.

(2) If the holder of a permit ceases to be a members' club (whether or not it becomes a commercial club), a commercial club or a miners' welfare institute, the permit lapses.

(3) A permit ceases to have effect upon being surrendered by notice given by the holder of the permit to the issuing Licensing Board.

(4) A notice under paragraph (3) must be accompanied by—

- (a) the permit, or
- (b) a statement explaining why it is not reasonably practicable to produce the permit.

(5) The Licensing Board which issues a permit is as soon as is reasonably practicable to inform the persons specified in paragraph (6) if the Board—

- (a) believes that the permit has lapsed under paragraph (2), or
- (b) receives notice of surrender under paragraph (3).

(6) The persons mentioned in paragraph (5) are—

- (a) the Commission, and
- (b) the chief constable for any police area in which the premises to which the permit relates are wholly or partly situated.

Cancellation of permit

18.—(1) The Licensing Board which issued a permit may cancel it if the Board thinks—

- (a) that the premises on which the holder of the permit conducts its activities are used wholly or mainly by children, by young persons or by both, or
- (b) that an offence, or a breach of a condition of a permit, has been committed in the course of gaming activities carried on by the holder of the permit.

(2) Before cancelling a permit under this regulation, a Licensing Board is to—

- (a) give the holder of the permit at least 21 days' notice of the Board's intention to consider cancelling the permit,
- (b) consider any representations made by the holder, and
- (c) hold a hearing if the holder requests one.

(3) If a Licensing Board cancels a permit, it must as soon as is reasonably practicable give notice of the cancellation and the reasons for it to—

- (a) the holder,
- (b) the Commission, and
- (c) the chief constable for any police area in which the premises to which the permit relates are wholly or partly situated.

(4) The cancellation of a permit is not to take effect until—

- (a) the period specified in regulation 21(4)(b) has expired without an appeal being brought, or
- (b) any appeal brought has been determined.

(5) The Licensing Board which issued a permit must cancel it if the holder fails to pay the annual fee in accordance with regulation 14.

(6) A Licensing Board may disapply paragraph (5) if it thinks that a failure to pay is attributable to administrative error.

Forfeiture of permit

19.—(1) Where the holder of a permit, or an officer of the holder of a permit, is convicted of an offence under the Act by or before a court, the court may order forfeiture of the permit.

(2) Forfeiture under this regulation is to be on such terms (which may include terms as to suspension) as may be specified by—

- (a) the court which orders forfeiture, or
- (b) the High Court in a case where an appeal against the conviction, or against any order made on the conviction, has been made.

(3) Subject to any express provision made under paragraph (2), a permit is to cease to have effect on the making of a forfeiture order under paragraph (1).

(4) The terms on which a forfeiture order is made under this regulation are, in particular, to include a requirement that the holder deliver to the Licensing Board which issued the permit, within such time as the order may specify—

- (a) the permit, or
- (b) a statement explaining why it is not reasonably practicable to produce the permit.

(5) As soon as is reasonably practicable after making an order for forfeiture under this regulation, the court must notify the Licensing Board which issued the permit.

Renewal

20.—(1) The holder of a permit may apply to the issuing Licensing Board for its renewal.

(2) An application for the renewal of a permit may not be made—

- (a) before the period of 3 months ending with the date on which the permit would otherwise expire, or
- (b) after the beginning of the period of 6 weeks ending with that date.

(3) An application under paragraph (1) is to be accompanied by a fee of £200.

(4) The provisions of these Regulations are to have effect (with any necessary modifications) in relation to an application for renewal as they have effect in relation to an application for a permit.

(5) Regulation 17(1) is to have effect in relation to a renewed permit with the substitution of the date of renewal for the date of issue.

(6) A permit is not to cease to have effect by virtue only of regulation 17(1) while—

- (a) an application for renewal of the permit is pending, or
- (b) an appeal against a decision on an application for renewal of the permit is pending.

Appeal

21.—(1) Where a Licensing Board rejects an application for the issue or renewal of a permit, the applicant may appeal.

(2) Where a Licensing Board grants an application for the issue or renewal of a permit in relation to which an objection was made under regulation 8, the person who made the objection may appeal.

(3) Where a Licensing Board cancels a permit, the holder may appeal.

- (4) An appeal under this regulation must be instituted—
- (a) before a sheriff within whose sheriffdom the premises to which the appeal relates are wholly or partly situated, and
 - (b) 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.
- (5) On an appeal the sheriff may—
- (a) dismiss the appeal,
 - (b) substitute for the decision appealed against any decision that the Licensing Board could have made,
 - (c) restore a permit (with effect from such date and on such transitional or other terms as the sheriff may specify),
 - (d) remit the case to the Licensing Board to decide in accordance with a direction of the sheriff,
 - (e) make an order about expenses.
- (6) Paragraphs (1) to (3) apply to a decision of a Licensing Board following remittal under paragraph (5)(d).

Register

- 22.**—(1) A Licensing Board must—
- (a) maintain a register of permits issued by the Board under these Regulations,
 - (b) make the register 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 to a member of the public on request.
- (2) A Licensing Board may refuse to provide a copy of an entry unless the person seeking it pays a reasonable fee specified by the Board.

Exercise of functions: general

- 23.**—(1) In exercising a function under these Regulations, a Licensing Board is to have regard to—
- (a) any relevant guidance under section 25 of the Act, and
 - (b) subject to sub-paragraph (a), the licensing objectives.
- (2) Section 155 of the Act has effect in relation to the functions of a Licensing Board under these Regulations as it has effect in relation to functions of a Licensing Board under Part 8 of the Act.

Vehicles and vessels

24. A club gaming permit or club machine permit may not be issued under these Regulations in respect of a vehicle or vessel (or part of a vehicle or vessel).

St Andrew's House,
Edinburgh
31st October 2007

KENNY MACASKILL
A member of the Scottish Executive

I consent,

G SUTCLIFFE
Minister of State, Department for Culture, Media and Sport

1st November 2007

1968 on or after 1st September 2007? Yes No

Please give date of registration

6. If the answer to either question 2 or 5 is 'Yes', please indicate which type of registration:
Part 2 Registration Part 3 Registration

Part II

7. Does this application relate to the same (or substantially the same) premises as those to which the registration relates? Yes No

8. Is this application made before the 'relevant date'? Yes No

[The 'relevant date' is the date on which the registration is due to expire, except where the applicant is registered on or after 1st September 2007, in which case the 'relevant date' for a Part 2 registration is the last day of the period of one year beginning on the date on which it is registered, and for a Part 3 registration is the last day of the period of five years beginning on the date on which it is registered.]

The applicant may apply as an existing operator if:

(a) the answer to questions 2, 4, 7 and 8 is 'Yes' OR

(b) the answer to questions 5, 7 and 8 is 'Yes'

If the applicant is applying as an existing operator:

- **Relevant documentation must be provided – see SECTION G**
- **The appropriate fee for an existing operator must be paid.**

SECTION C – Contact Details of the Applicant

9. Name of applicant

.....

10. Address (including postcode) of premises on which the applicant operates

.....

.....

.....

[any gaming or gaming machines authorised by a relevant permit must take place or be located on these premises]

11. Telephone number of applicant

12. E-mail address of applicant (if correspondence by e-mail is preferred)

.....

SECTION D – Information about the Applicant

If the applicant is a miners' welfare institute, complete questions 13 to 16:

13. Is the applicant established and conducted for social and recreational purposes?

Yes No

14. Are the applicant's affairs managed by a group of individuals of whom at least two thirds are miners' representatives? Yes No

15. Does the applicant operate on premises the use of which is regulated in accordance with a charitable trust?

Yes No

16. If the answer to question 15 is 'Yes', has the charitable trust received money from any of the following:

(a) the Miners' Welfare Fund established by section 20 of the Mining Industry Act 1920,

(b) the former body corporate which was known as the Coal Industry Social Welfare Organisation and incorporated under the Companies Act 1948, or

(c) the charitable trust known as the Coal Industry Social Welfare Organisation?

Yes No

If the applicant is a members' club or commercial club, complete questions 17 to 22

17. Is the Applicant established with the purpose of functioning only for a limited period of time?

Yes No

18. Does the applicant have at least 25 individual members? Yes No

19. Is the applicant established and conducted for the benefit of its members? Yes No

20. Is the applicant established or conducted as a commercial enterprise? Yes No

21. Describe the purpose(s) for which the applicant is mainly or wholly established and conducted

.....
.....
.....
.....
.....
.....
.....
.....

22. If the applicant is established or conducted wholly or mainly for the purpose of the provision of facilities for gaming, please specify the kinds of gaming

.....
.....
.....

SECTION E – General information about person applying on behalf of applicant

23. Name

24. Capacity

25. Address (including postcode)

.....
.....
.....

26. Daytime telephone number

27. E-mail address (if correspondence by e-mail is preferred)

.....

SECTION F – Contact details for correspondence associated with this application

28. Please tick one box as appropriate:

See address in section C See address in section E See address below :

Address (including postcode)

.....
.....
.....

Telephone number

E-mail address (if correspondence by e-mail is preferred)

SECTION G – Declaration

29. Please complete the following declarations and checklist:

I *[full name]*

- a. make this application on behalf of the applicant and have authority to bind the applicant.
- b. confirm that I am aware of the relevant code of practice issued by the Gambling Commission under section 24 of the Gambling Act 2005 about the location and operation of a gaming machine.
- c. confirm that I am aware that the permit to which this application relates will be subject to the relevant conditions specified in section 271 or 273 of the Gambling Act 2005.
- d. confirm that I am aware that the applicant must send a copy of this application and any accompanying documents to the Gambling Commission and the chief constable within a period of seven days beginning on the date this application is made.

e. Checklist *[tick as appropriate]*:

- Payment of the appropriate fee of £ is enclosed.
- A copy of the existing club gaming permit or club machine permit is enclosed *[only applies to applications to renew a permit]*
- A copy of the registration certificate issued under Part 2 of the Gaming Act 1968 is enclosed *[only applies if the applicant wishes to apply as an existing Part 2 operator]*
- A copy of the registration certificate issued under Part 3 of the Gaming Act 1968 is enclosed *[only applies if the applicant wishes to apply as an existing Part 3 operator]*

e. **confirm that, to the best of my knowledge, the information contained in this application is true. I understand that it is an offence under section 342 of the Gambling Act 2005 to give information which is false or misleading in, or in relation to, this application.**

Signature

Date

Capacity

SCHEDULE 2

Regulation 11(1)

This form is prescribed by regulation 11(1) of the Club Gaming and Club Machine Permits (Scotland) Regulations 2007

Club Gaming Permit

No:.....[insert club gaming permit number]

This club gaming permit authorises
..... [name of permit holder]

to provide facilities for gaming in accordance with section 271 of the Gambling Act 2005, and to make available for use up to three gaming machines, each of which must be of Category B3A, B4, C or D, on the following premises

.....
.....
.....
.....
.....
.....

(address of premises, including postcode)

Certificate Number (if any)
[complete if permit holder is the holder of a certificate of registration under section 105 of the Licensing (Scotland) Act 1976].

Date on which this permit takes effect or is renewed:
.....

Date on which this permit expires:
.....

This permit is issued by
.....
.....
.....
.....

..... *[Name and address of Licensing Board issuing permit]*

SCHEDULE 3

Regulation 11(2)

This form is prescribed by regulation 11(2) of the Club Gaming and Club Machine Permits (Scotland) Regulations 2007

Club Machine Permit

No:.....[insert club gaming permit number]

This club machine permit authorises
.....
..... [name of permit holder]

to make available for use up to three gaming machines, each of which must be of Category B3A (except that category B3A machines may not be made available for use in commercial clubs), B4, C or D, on the following premises
.....
.....
.....
.....
.....
.....
.....
.....
.....

[address of premises, including postcode]

Certificate Number (if any)
[complete if permit holder is the holder of a certificate of registration under section 105 of the Licensing (Scotland) Act 1976].

Date on which this permit takes effect or is renewed:
.....

Date on which this permit expires:
.....

This permit is issued by
.....
.....
.....
.....
.....

..... [Name and address of Licensing Board issuing permit]

EXPLANATORY NOTE

(This note is not part of the Regulations)

Sections 271 and 273 of the Gambling Act 2005 make provision for club gaming permits to be issued to members' clubs and miners' welfare institutes and for club machine permits to be issued to such clubs and institutes or to commercial clubs. In Scotland, the issuing authority is the Licensing Board for the area in which the premises in question are situated.

These Regulations make further provision in relation to club gaming permits and club machine permits where the applicant for, or holder of, the permit holds a licence granted under section 9(1) of the Licensing (Scotland) Act 1976 (other than an off-sale licence) or a certificate of registration under section 105 of that Act. Regulations 3 to 7 provide as to the procedure for making an application for a permit whilst regulations 8 to 10 concern how such an application is to be dealt with. Provision is made as to the form of any permit (regulation 11 and Schedules 2 and 3), annual fees (regulation 14), and the variation, duration, cancellation, forfeiture and renewal of permits (regulations 15 and 17 to 20). Regulation 21 deals with appeals.

2007 No. 504

BETTING, GAMING AND LOTTERIES

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Regulations 2007

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