

GAMBLING ACT 2005

EXPLANATORY NOTES

TERRITORIAL EXTENT

Territorial limits – vessels and aircraft

Schedule 9: Applications for casino premises licences

Part 9: Temporary Use of Premises

540. [Part 9](#) makes provision for the use of premises for gambling where there is no premises licence in respect of those premises, but an operating licence holder wishes to use the premises, temporarily, for providing facilities for gambling.
541. Temporary use notices, endorsed by licensing authorities, will authorise the provision of gambling activities temporarily on specific premises. The nature of the gambling activities that can be provided under such notices will be controlled by the Secretary of State in regulations. Examples of premises which could be subject to a temporary use notice are hotels, exhibition centres or entertainment venues.
542. [Part 1](#) defines the licensing authorities which will consider temporary use notices, and Part 18 requires licensing authorities to make a licensing policy statement in relation to their functions under this Part.

Sections 214 to 218: Temporary use notice

543. Where an operating licence holder wishes to provide facilities for gambling temporarily on premises, he may give notice in writing (a “temporary use notice”) that he intends to use the premises for the provision of facilities for gambling. Only a holder of an operating licence may give a temporary use notice, and the activity that he wishes to provide must be the same activity that he is authorised to provide facilities for under the terms of his operating licence.
544. The temporary use notice must be in the form prescribed by the Secretary of State, and must specify the information listed in section 216(1).
545. A temporary use notice cannot authorise any gambling activities. It can only authorise such gambling activities as the Secretary of State may specify in regulations, and which are set out in the notice. These regulations may also specify combinations of activities that may not be provided together under a temporary use notice. For example, if facilities for poker, blackjack and pool betting were to be authorised by the Secretary of State, a temporary use notice could not permit the provision of such facilities at the same time, on the same premises.
546. [Section 218](#) provides that a set of premises cannot be subject to a temporary use notices for more than 21 days in any 12 month period. This means that, while several different temporary use notices may have effect for a set of premises over a period of time, the aggregate period of these notices cannot exceed 21 days in a 12 month period. This is the case even if the gambling activities taking place under the notices are different

activities. The maximum period of 21 days applies to all gambling carried on pursuant to notices, not merely one type of gambling.

547. These sections set out procedures for the licensing authority to ensure that these time periods are complied with. If any notice is served which is in breach of these requirements, the authority must serve a counter-notice which prevents the temporary use notice authorising gambling for anything over the permitted 21 days.
548. A valid (i.e. endorsed) temporary use notice, which complies with the requirements of this Part, will authorise gambling carried on pursuant to it, and no offences under Part 3 of the Act will be committed.

Sections 219 & 220: Giving notice: procedure

549. A temporary use notice must be served upon a licensing authority for the area in which the premises are situated. It must be given at least three months before it is proposed to have effect. It must arrive with both the licensing authority and any other person entitled to receive it within 7 days of the date on which it is stated to have been given.
550. A number of procedural requirements must be followed, including the payment of any fee that is prescribed by the Secretary of in regulations. In England and Wales this fee setting power may be devolved to licensing authorities in accordance with section 212. In addition, the person giving notice must also give a copy of it to the Commission, the police, and Her Majesty's Commissioners of Customs and Excise. This allows these people to object to the proposed notice, as outlined below.
551. The licensing authority receiving a notice must acknowledge its receipt as soon as practicable thereafter.

Sections 221 to 223: Objections and modification by agreement

552. The licensing authority or anyone else entitled to receive a copy of a notice may object to it. The grounds for objections are that, having regard to the licensing objectives set out in Part 1 of the Act, the notice should not have effect, or should only have effect with modifications. A notice of objection must be served upon the person seeking to make the facilities for gambling available (i.e. the server of the temporary use notice) within 14 days of the date of the temporary use notice, and must state the reasons for the objection. A copy must also be given to the licensing authority.
553. Where objection notices have been served, the licensing authority must hold a hearing at which representations may be made by the person who gave the temporary use notice, the people who objected, and any other people who were entitled to receive a copy of the notice. This requirement may be waived if the licensing authority, and each person who would be entitled to make representations, agree in writing that a hearing is unnecessary.
554. Where an objection has been made to a temporary use notice, but a hearing has not taken place (either because it has not yet happened, or because it has been dispensed with), anyone who has raised objections under these sections may propose a modification to the notice. If the modifications are agreed, a new temporary use notice, incorporating the modifications, can be served and the original notice will be treated as withdrawn. In these circumstances, the three-month time limit and fee will not apply to the new temporary use notice. If all objections are dealt with by modifications then this will dispense with the further need to hold a hearing in relation to the notice. If not, then those with objections outstanding can continue to contest the notice.

Sections 224 to 226: Counter-notices and dismissal of objections

555. Where:
- an objection notice has been served;

- modification has not removed the objection; and
 - either a hearing has taken place, or been dispensed with,
- the licensing authority may determine that the temporary use notice should not have effect, or should only have effect with modifications. The principles it must apply in reaching a view are the same as those it applies when determining premises licence applications. Therefore, it should aim to permit the temporary use of premises for gambling, in so far as it thinks that permission:
- accords with relevant Commission codes of practice and guidance;
 - is reasonably consistent with the licensing objectives; and
 - is in accordance with the authority's three-year licensing policy (established by the authority under section 349 of the Act).
556. If the authority concludes that the temporary use notice should not have effect, or should only have effect with modifications, it must serve a counter-notice upon the person who served the temporary use notice. This counter-notice may provide that the temporary use notice:
- will not have effect;
 - will have effect only in respect of a certain activity;
 - will only have effect in relation to an activity for a certain period of time or during certain hours of the day; or
 - will be subject to a condition.
557. A counter notice must be in the prescribed form and state the licensing authority's reasons for giving it. A copy must be given to any person who was entitled to receive a copy of the temporary use notice under section 219.
558. If the authority concludes that it will not give any counter-notice, then it must inform all relevant parties of this fact. The effect is that any objection notices have been dismissed by the authority.
559. Rights of appeal are available following an authority's decision to issue a counter-notice or to dismiss objections under these sections. The person who gave the temporary use notice, and any person entitled to receive a copy of it, may appeal. An appeal lies to the magistrates' court, and must be made within 14 days of receiving notice of the licensing authority's decision. In Scotland, the appeal will be to the sheriff in whose area the premises are located. If the appeal is against the decision of the licensing authority not to issue a counter notice, then the person giving the temporary use notice will also be a respondent in the case.
560. Where the decision to appeal may be made by a person entitled to receive a copy of the notice under section 219, they must decide whether to appeal, and to institute any appeal as soon as is reasonably practicable.
561. The magistrates' court or sheriff may, on hearing an appeal, dismiss it; direct the licensing authority to take some specified action; remit it back to the licensing authority to decide in accordance with a direction of the court; and make an order as to costs (or expenses). Where the decision is remitted to the licensing authority, the same rights of appeal will flow from their new decision as applied to their original one.
562. A further right of appeal exists to the High Court or Court of Session on a point of law.

Section 227: Endorsement of notice

563. If no objections are raised to a temporary use notice during the 14-day period after it is made, then the licensing authority will return the notice to the person who gave it, endorsing it as valid. The Secretary of State may prescribe the precise method of endorsement in regulations.
564. If a notice of objection was served, but did not result in a counter-notice being served (i.e. the objections were dismissed) then the temporary use notice must similarly be endorsed and returned, as soon as reasonably practicable, to the person who gave it.
565. An endorsed temporary use notice provides authorisation for the specified facilities for gambling to be provided at the relevant premises, in accordance with its terms.

Section 228: Consideration by licensing authority: timing

566. Licensing authorities will have six weeks from the date of the temporary use notice to complete proceedings on the notice. This includes proceedings to consider whether to give a notice of objection; holding a hearing or agreeing to dispense with one, and giving a counter notice or a notice dismissing any objections.

Sections 229 & 230: Miscellaneous provisions

567. An endorsed temporary use notice must be displayed on the premises to which it relates at any time when it is being relied upon. It must also be made available on request to a police constable, a Commission enforcement officer, an authorised local authority officer, or an officer of Her Majesty's Customs and Excise. If a person fails to display or produce his notice as required, he will commit an offence for which he will be liable to a fine not exceeding level 2 on the standard scale.
568. A person who has given a temporary use notice to a licensing authority may withdraw it at any time. It will then cease to have effect and any proceedings relevant to it will cease, except in relation to a matter which arose during, or in relation to, any time during which it was in effect.

Section 231: Vehicles and vessels

569. A temporary use notice may be given in respect of a passenger vessel, but may not be given in relation to a vehicle. The interpretation section in Part 18 contains provisions for defining vessels and vehicles, and this section contains rules for determining where vessels are located for the purpose of a licensing authority's functions under this Part. See also the note on section 211.

Section 232: Delegation of licensing authority functions: England and Wales

570. This section provides that the provisions of Part 8 of the Act, in relation to the delegation of functions to a licensing committee established under the Licensing Act 2003, and further delegation to officers of the authority under sections 154 and 155, apply similarly to this Part. The only matter that may not be sub-delegated under this Part is the decision under section 224 to issue a counter notice. That decision must be made by the licensing committee.

Section 233: Delegation of licensing authority functions: Scotland

571. This section provides that the provisions of Part 8 of the Act, in relation to the delegation of functions of Scottish licensing authorities, apply similarly to this Part. The decision to issue a counter-notice under this Part may not, however, be delegated to the clerk of the authority, or a person appointed to assist him.

Section 234: Register

572. This section makes provision for licensing authorities to maintain a register of temporary use notices in a form and manner specified by the Secretary of State in regulations. The register must be available for inspection by members of the public at all reasonable times, and a copy must be provided to a member of the public on request. A charge may be made for copies.
573. The Secretary of State may also, in regulations, require licensing authorities to provide information about temporary use notices to the Commission in a specified fashion. The Commission may then be required to keep its own register of the information provided to it, and may relieve licensing authorities from the need to maintain a register under this section.