



Gambling Act 2005

2005 CHAPTER 19

PART 9

TEMPORARY USE OF PREMISES

Procedure

219 Giving notice

- (1) A temporary use notice must be given to the licensing authority for the area in which the premises specified under section 216(1)(c) are situated.
- (2) A temporary use notice must be given before the period of three months ending with the day before the period specified under section 216(1)(d).
- (3) A temporary use notice given under subsection (1) must be accompanied by—
 - (a) a copy of the notice, and
 - (b) such fee as may be prescribed by regulations made—
 - (i) in relation to premises in England and Wales, by the Secretary of State, and
 - (ii) in relation to premises in Scotland, by the Scottish Ministers.
- (4) A person who gives a temporary use notice must give a copy of it to—
 - (a) the Commission,
 - (b) either—
 - (i) in England and Wales, the chief officer of police for any area in which the premises specified in the notice 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.

Status: This is the original version (as it was originally enacted).

- (5) A person who gives a temporary use notice must ensure that it, and any copy required by this section to be given, are received within the period of 7 days beginning with the date specified under section 216(1)(g).
- (6) In the case of premises situated partly in the area of one licensing authority and partly in the area of another, the person giving the notice—
 - (a) may give it to either authority, and
 - (b) shall give a copy of the notice to the other authority.
- (7) In this Part—
 - (a) “chief officer of police” has the meaning given by section 101(1) of the Police Act 1996 (c. 16), and
 - (b) a reference to a chief officer’s area is a reference to the area in respect of which he has responsibility under that Act.
- (8) Section 212 shall have effect in relation to fees under this section as it has effect in relation to fees under Part 8.

220 Acknowledgment of notice

Where a licensing authority receive a temporary use notice in accordance with section 219(1) they shall as soon as is reasonably practicable send a written acknowledgment of the notice to the person who gave it.

221 Objections

- (1) This section applies where a person receives a temporary use notice, or a copy of a temporary use notice, in accordance with section 219.
- (2) If the person thinks that having regard to the licensing objectives the temporary premises notice should not have effect, or should have effect only with modification, he may give a notice of objection to the person who gave the temporary use notice.
- (3) A person who gives a notice of objection under subsection (2) must give a copy of the notice to the licensing authority to which the temporary use notice was given (unless it is that licensing authority which give the notice of objection).
- (4) A notice of objection and any copy required by subsection (3) must be given within the period of 14 days beginning with the date on which the temporary use notice is given as specified under section 216(1)(g).
- (5) A notice of objection must state—
 - (a) that the person giving the notice objects to the temporary use notice, and
 - (b) the person’s reasons.
- (6) If the person who gives a notice of objection later withdraws it by notice in writing to the persons mentioned in subsections (2) and (3), the notice of objection shall be disregarded.

222 Hearing of objections

- (1) This section applies where—

- (a) a temporary use notice is given to a licensing authority in accordance with section 219, and
 - (b) a notice of objection is given in accordance with section 221.
- (2) The licensing authority shall hold a hearing at which any of the following may make representations about the notice of objection—
- (a) the person who gave the temporary use notice,
 - (b) the person who gave the notice of objection, and
 - (c) any other person who was entitled to receive a copy of the temporary use notice in accordance with section 219.
- (3) But the licensing authority need not arrange a hearing if the authority and each person who would be entitled to make representations agree in writing that a hearing is unnecessary.

223 Modification by agreement

- (1) This section applies where—
- (a) a person has given a temporary use notice to a licensing authority in accordance with section 219,
 - (b) a notice of objection has been given by a person (“the objector”) in accordance with section 221, and
 - (c) a hearing in accordance with section 222(2) has neither—
 - (i) taken place, nor
 - (ii) been dispensed with in accordance with section 222(3).
- (2) The objector may by notice in writing to the person who gave the temporary use notice propose a modification of that notice.
- (3) If the person who gave the temporary use notice accepts the modification—
- (a) he shall give a new notice, incorporating the modification, in accordance with section 219, and
 - (b) the objection shall be treated as withdrawn (but without prejudice to the right of any person other than the objector to give a notice of objection in relation to the new notice).
- (4) The following provisions of section 219 shall not apply to a temporary use notice given under subsection (3)(a) above—
- (a) subsection (2), and
 - (b) subsection (3)(b).

224 Counter-notice

- (1) This section applies where—
- (a) a person has given a temporary use notice to a licensing authority in accordance with section 219,
 - (b) a notice of objection has been given in accordance with section 221, and
 - (c) a hearing—
 - (i) has taken place in accordance with section 222(2), or
 - (ii) has been dispensed with in accordance with section 222(3).

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

- (2) If the licensing authority think that the temporary use notice should not have effect or should have effect only with modification, the authority may give a counter-notice under this subsection to the person who gave the temporary use notice.
- (3) A counter-notice may provide for the temporary use notice—
 - (a) not to have effect;
 - (b) to have effect only in respect of a specified activity;
 - (c) to have effect only in respect of activity carried on during a specified period of time or at specified times of day;
 - (d) to have effect subject to compliance with a specified condition;and provision made under this subsection shall have effect.
- (4) A counter-notice must—
 - (a) be in the prescribed form,
 - (b) contain the prescribed information, and
 - (c) be given as soon as is reasonably practicable.
- (5) A counter-notice must state the licensing authority's reasons for giving it.
- (6) Where a licensing authority give a counter-notice they shall as soon as is reasonably practicable give a copy to any person who was entitled to receive a copy of the temporary use notice.
- (7) Section 153(1) shall apply to the exercise of a licensing authority's functions under this section as it applies to the exercise of a licensing authority's functions under Part 8.
- (8) In this section "prescribed" means prescribed by regulations made by the Secretary of State.

225 Dismissal of objection

- (1) This section applies where—
 - (a) a person has given a temporary use notice to a licensing authority in accordance with section 219,
 - (b) a notice of objection has been given in accordance with section 221, and
 - (c) the licensing authority has determined not to give a counter-notice.
- (2) The licensing authority shall as soon as is reasonably practicable give notice of their determination to—
 - (a) the person who gave the temporary use notice, and
 - (b) each person who received a copy of the temporary use notice in accordance with section 219.

226 Appeal

- (1) This section applies where a licensing authority—
 - (a) give a counter-notice under section 224, or
 - (b) give a notice under section 225.
- (2) Any of the following may appeal—
 - (a) the person who gave the temporary use notice, and

- (b) a person who was entitled to receive a copy of the temporary use notice under section 219.
- (3) An appeal under this section must be instituted—
 - (a) in the magistrates' court for a local justice area in which the premises to which the temporary use notice relates are wholly or partly situated,
 - (b) by notice of appeal given to the designated officer, and
 - (c) within the period of 14 days beginning with the day on which the appellant receives notice of the action against which the appeal is brought.
- (4) A person who was entitled to receive a copy of the temporary use notice under section 219 must determine whether to appeal, and institute any appeal, as soon as is reasonably practicable.
- (5) Where an appeal is brought against the giving of a notice under section 225 the person who gave the temporary use notice shall be a respondent in addition to the licensing authority.
- (6) On an appeal under this section the magistrates' court may—
 - (a) dismiss the appeal;
 - (b) direct the licensing authority to take action of a specified kind;
 - (c) remit the case to the licensing authority to decide in accordance with a direction of the court;
 - (d) make an order about costs.
- (7) Subsection (2) applies to a decision of a licensing authority following remittal under subsection (6)(c) above.
- (8) A party to an appeal under this section may bring a further appeal to the High Court on a point of law.
- (9) In relation to premises in Scotland—
 - (a) subsection (3)(a) shall have effect as if it referred to a sheriff within whose sheriffdom the premises are wholly or partly situated,
 - (b) subsection (3)(b) shall not have effect,
 - (c) the reference in subsection (6) to the magistrates' court shall have effect as a reference to the sheriff,
 - (d) the reference in subsection (6) to costs shall have effect as a reference to expenses, and
 - (e) the reference in subsection (8) to the High Court shall have effect as a reference to the Court of Session.

227 Endorsement of notice

- (1) This section applies where a temporary use notice has been given to a licensing authority under section 219.
- (2) If no notice of objection is pending in relation to the temporary use notice when the 14 day period specified in section 221(4) expires, the licensing authority shall—
 - (a) endorse the copy submitted under section 219(3)(a) in such manner as may be prescribed by the Secretary of State by regulations, and
 - (b) return the endorsed copy, as soon as is reasonably practicable, to the person giving the notice.

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

- (3) If a notice of objection is pending in relation to a temporary use notice when the 14 day period specified in section 221(4) expires, then as soon as is reasonably practicable after the completion of proceedings on the temporary use notice the licensing authority shall, unless they give a counter-notice under section 224(3)(a)—
 - (a) endorse the copy submitted under section 219(3)(a) in such manner as may be prescribed by the Secretary of State by regulations, and
 - (b) return the endorsed copy, as soon as is reasonably practicable, to the person giving the temporary use notice.
- (4) For the purposes of this section a notice of objection is pending if it has been given in accordance with section 221 and—
 - (a) it has not been withdrawn, and
 - (b) it is not treated as withdrawn in accordance with section 223(3)(b).
- (5) For the purposes of this section proceedings on a temporary use notice are completed—
 - (a) if any notice of objection given in relation to the temporary use notice has been withdrawn, or
 - (b) if the licensing authority has given a counter-notice under section 224 or a notice under section 225.
- (6) A licensing authority shall make arrangements whereby if an endorsed copy of a temporary use notice is lost, stolen or damaged the person who gave the notice can obtain a new endorsed copy; and—
 - (a) the arrangements may include the charging of such fee as the Secretary of State may prescribe by regulations, and
 - (b) section 212 shall have effect in relation to fees under paragraph (a) above as it has effect in relation to fees under Part 8.

228 Consideration by licensing authority: timing

- (1) Where a licensing authority are given a temporary use notice in accordance with section 219 the authority shall complete proceedings on the notice before the end of the period of six weeks beginning with the date on which they receive the notice.
- (2) In subsection (1) the reference to proceedings on a temporary use notice is a reference to—
 - (a) considering whether to give a notice of objection under section 221,
 - (b) holding a hearing in relation to any notice of objection given under section 221 (whether or not by the licensing authority) or agreeing to dispense with a hearing in accordance with section 222(3), and
 - (c) giving a counter-notice under section 224 or a notice under section 225.