

SCHEDULE 4

Transitional provisions

PART 11

Conversion of permits under section 16 of the Lotteries and Amusements Act 1976 into prize gaming permits

Meaning of existing operator for the purposes of an application for a prize gaming permit

101.—(1) This paragraph specifies the circumstances in which a person applying for a prize gaming permit under Schedule 14 to the 2005 Act (referred to in this Part as a “prize gaming permit”) is to be treated for the purposes of this Part as an existing operator.

(2) A person is an existing operator if on the date on which he makes the application for the prize gaming permit—

- (a) he holds a permit issued under section 16 of the 1976 Act (which provides for permits authorising the provision of amusements with prizes at certain commercial entertainments) (referred to in this Part as a “section 16 permit”), or
- (b) he is applying for such a permit, and the application (including any appeal) has not been finally determined or withdrawn.

Conversion of section 16 permits into prize gaming permits

102.—(1) Where—

- (a) an existing operator makes an advance application for a prize gaming permit,
- (b) the application relates to the same or substantially the same premises as those to which the section 16 permit relates, and
- (c) the application complies with the requirements of paragraphs 3 to 5 and 6(b), (c) and (e) of Schedule 14 to the Act,

the licensing authority must grant that application.

(2) Paragraphs 9(1)(b), 10 and 11 of Schedule 14 to the 2005 Act are not to apply to such an application.

Failure to make the application for a prize gaming permit in the appropriate form or manner

103.—(1) This paragraph applies to any application for a prize gaming permit which meets the conditions in paragraphs (a) to (c) of paragraph 102(1), but does not comply with a requirement imposed under sub-paragraph (a) or (d) of paragraph 6 of Schedule 14 to the 2005 Act.

(2) Where the licensing authority give notice in writing to the applicant requesting him to do anything which is necessary for the purposes of complying with any such requirement, the licensing authority are to cease to be under a duty by virtue of paragraph 102(1) to grant the application until such time as the applicant complies with the request.

(3) In the case of an application made before 31st July 2007, the applicant must comply with any request made under sub-paragraph (2) within such period as may be specified in the relevant notice (such period not being less than 14 days from the date on which the notice is received).

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(4) If, in a case to which paragraph 105 applies, the applicant fails to comply with the request within the period specified in accordance with sub-paragraph (3) above—

- (a) sub-paragraph (3) of that paragraph is to cease to apply to the application after the end of that period; and
- (b) where the relevant prize gaming permit is treated as having been issued to the applicant by virtue of that sub-paragraph, the permit is to lapse.

Effect of cancellation of section 16 permit

104.—(1) Where—

- (a) a person makes an application for a prize gaming permit which meets the conditions in paragraphs (a) to (c) of paragraph 102(1), and
- (b) the section 16 permit by virtue of which he qualifies as an existing operator is cancelled, the licensing authority must reject the application.

(2) Where despite sub-paragraph (1) the licensing authority purport to grant the prize gaming permit in respect of which the application is made, the permit is to be of no effect.

(3) Where the section 16 permit is cancelled after the licensing authority have issued the prize gaming permit in pursuance of paragraph 102(1), the permit is to lapse on the date on which the section 16 permit is cancelled.

Provisions to ensure that existing operators can continue to operate on and after 1st September 2007

105.—(1) This paragraph applies to an application for a prize gaming permit which meets the conditions in paragraphs (a) to (c) of paragraph 102(1), but where in addition the application is made before 31st July 2007.

(2) The licensing authority must determine any such application within a period of one month beginning on the date on which the application is made.

(3) If the licensing authority do not determine the application within the period referred to in sub-paragraph (2)—

- (a) the application is to be treated as having been granted, and
- (b) the relevant prize gaming permit as having been issued to the applicant, on the day immediately following the end of that period.

(4) Where by virtue of sub-paragraph (3) above a prize gaming permit is treated as having been issued to a person, paragraph 9(3) of Schedule 14 to the 2005 Act (which makes provision about the issuing of prize gaming permits) is to have effect as if it required the licensing authority to provide the applicant with a copy of the permit as soon as practicable on or after the date of issue.

(5) For the purposes of paragraph 12(1)(d) of Schedule 14 to the 1968 Act (which requires the date on which a prize gaming permit takes effect to be specified in the permit), the licensing authority are to specify 1st September 2007 as the date on which the prize gaming permit takes effect.

Conversion of section 16 permits into prize gaming permits: supplementary provisions

106.—(1) This paragraph applies to an application for a prize gaming permit where the person making the application qualifies as an existing operator by virtue of paragraph 101(2)(b).

(2) Paragraph 102(1) is to have effect in relation to such an application as if the following paragraph was substituted for paragraph (b)—

“(b) the application relates to the same or substantially the same premises as those to which the application for the section 16 permit relates, and”.

(3) Where the application meets the conditions in paragraphs (a) to (c) of paragraph 102(1), that sub-paragraph is to be modified so that—

- (a) the licensing authority may not determine the application for a prize gaming permit before the application for the section 16 permit has been determined;
- (b) the licensing authority are only to be under a duty to grant the application for a prize gaming permit if the application for the section 16 permit is granted; and
- (c) the licensing authority must reject the application for a prize gaming permit if the application for the section 16 permit is refused.

(4) Sub-paragraph (3)(b) is subject to paragraph 107(2).

(5) The following provisions of this paragraph apply where the application is one to which paragraph 105 applies.

(6) Sub-paragraph (2) of paragraph 105 is to be subject to paragraph (3) above.

(7) Where—

- (a) the application for the section 16 permit is granted before 1st September 2007, but
- (b) it is granted after the day referred to in sub-paragraph (3) of paragraph 105,

that sub-paragraph is to have effect as if it provided for the application to be treated as having been granted and the relevant prize gaming permit issued on the date on which the application for the section 16 permit is granted.

(8) Sub-paragraphs (2) and (3) of paragraph 105 are not to apply where the application for the section 16 permit is refused or withdrawn, or is not granted before 1st September 2007.

(9) For the purposes of this paragraph, where an application for a section 16 permit is refused, it is not to be treated as having been determined or refused until the period for appealing against the decision to refuse the permit has elapsed; or, if an appeal is made, unless and until the appeal is dismissed or abandoned.

Conversion of section 16 permits into prize gaming permits: supplementary provisions where premises are situated in Scotland

107.—(1) This paragraph applies in any case falling within paragraph 106 where the premises to which the application for the section 16 permit relates are situated in Scotland.

(2) Paragraph 106 is to have effect as if for sub-paragraph (3) there were substituted—

“(3) Where the application meets the conditions in paragraphs (a) to (c) of paragraph 102(1), that sub-paragraph is to be modified so that—

- (a) the licensing authority may not determine the application for a prize gaming permit until the applicant notifies it in writing of the determination of the application for the section 16 permit; and
- (b) the licensing authority are only to be under a duty to grant the application for a prize gaming permit if—
 - (i) the application for the section 16 permit is granted, and
 - (ii) the applicant has given the authority written notice of that fact and provided it with a copy of the permit;
- (c) the licensing authority must reject the application for a prize gaming permit if the application for the section 16 permit is refused.”

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(3) Subject to sub-paragraphs (4) and (5) below, where sub-paragraph (3) of paragraph 105 applies because the application for the section 16 permit is granted before 1st September 2007, sub-paragraph (4) of that paragraph is to have effect as if it required the licensing authority to provide the applicant with a copy of the prize gaming permit as soon as practicable on or after the date on which they are notified of the grant of the application for the section 16 permit and provided with a copy of the permit.

(4) Where paragraph 105(3) applies because the application for the section 16 permit is granted before 1st September 2007, the applicant must notify the licensing authority of the fact that the application has been granted, and provide them with a copy of the section 16 permit, before the end of the period of 14 days beginning on the day on which the application is granted.

(5) Where the applicant fails to do the things referred to in sub-paragraph (4) within the period specified in that sub-paragraph, the licensing authority may revoke the permit issued in accordance with paragraph 105(3).