

SCHEDULE 4

Transitional provisions

PART 6

Transitional arrangements with respect to personal licences

Interpretation of Part 6

44. Any reference in this Part of this Schedule to a provision of Part 5 of the 2005 Act is to have effect as a reference to that provision as applied by section 128 of that Act.

Continuation of certificates under section 19 of the Gaming Act 1968 on and after 1st September 2007

45.—(1) This paragraph applies to a certificate issued under section 19 of the 1968 Act (which provides for persons exercising specified functions on premises licensed under that Act to be approved by the Gambling Commission) which—

- (a) is in force immediately before 1st September 2007, or
- (b) is granted on or after that date.

(2) A certificate to which this paragraph applies is referred to in this Part as a section 19 certificate.

(3) A section 19 certificate is to have effect on and after 1st September 2007.

(4) Subject to sub-paragraphs (5) and (6), where a section 19 certificate has effect in accordance with sub-paragraph (3), its effect is to authorise the person to whom it was issued, in connection with the provision of facilities for gambling in reliance on a non-remote casino or bingo operating licence—

- (a) to perform the functions specified in the certificate on the premises so specified, or
- (b) to perform any functions reasonably necessary for the purposes of acting in the capacity specified in the certificate in relation to the premises so specified.

(5) Sub-paragraph (6) applies to any certificate under section 19 of the 1968 Act where the holder of the certificate applies (whether before, on or after 1st September 2007) for a personal licence to authorise the performance of functions which include the functions authorised by the certificate.

(6) The section 19 certificate is to have effect on and after—

- (a) 1st September 2007, or
- (b) if the application referred to in paragraph (5) is granted after that date, the date on which the application is granted,

as if it authorised the holder to perform the functions referred to in the certificate in or in relation to any premises in respect of which, as the case may be, a casino or bingo premises licence has effect (and not only in or in relation to the premises specified in the certificate).

(7) On and after 1st September 2007 a section 19 certificate is to have effect subject to any relevant personal licence conditions.

(8) In sub-paragraph (7), references to relevant personal licence conditions in relation to a section 19 certificate are to—

- (a) any conditions in relation to personal licences—
 - (i) for the time being specified by the Gambling Commission under section 75 of the 2005 Act, or

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- (ii) for the time being specified by the Secretary of State in regulations under section 78 of that Act,
- and which apply to the performance of the functions authorised by the certificate; and
- (b) any conditions attached to the certificate by virtue of paragraph 48(3).

Duration of section 19 certificates

46.—(1) Subject to the following provisions of this paragraph, a section 19 certificate is to have effect until 31st December 2009.

(2) Where—

- (a) the holder of a section 19 certificate applies for a personal licence to authorise the performance of functions which include the functions authorised by the certificate, and
- (b) that application is made before 31st August 2009,

the certificate is not to cease to have effect by virtue of paragraph (1) before the application is finally determined or is withdrawn.

(3) A section 19 certificate is to cease to have effect before 31st December 2009 if it ceases to have effect in accordance with—

- (a) section 113, 114, 115, 118 or 119 of the 2005 Act (which, as applied by section 128, provide respectively for the surrender, lapse, forfeiture, suspension and revocation of personal licences), or
- (b) sub-paragraphs (4) and (5).

(4) A section 19 certificate is to cease to have effect if the person to whom it was issued is granted a personal licence authorising the performance of functions which include all the functions authorised by the certificate.

(5) Where sub-paragraph (4) applies, the certificate is to cease to have effect immediately before the personal licence has effect.

Application of the Gambling Act 2005 to section 19 certificates

47.—(1) This paragraph applies where an operating licence is subject to a condition that a specified function is to be performed—

- (a) by an individual who holds a personal licence authorising the performance of that function, and
- (b) in accordance with the terms and conditions of the personal licence.

(2) The condition referred to in sub-paragraph (1) is to be treated as having been complied with if—

- (a) the function is performed by an individual who holds a section 19 certificate authorising the performance of the function, and
- (b) it is performed in accordance with any relevant personal licence conditions having effect in relation to the certificate.

(3) The following provisions of the 2005 Act are to have effect in relation to a section 19 certificate as if any reference in those provisions to a personal licence included a reference to the certificate—

- (a) in Part 5, section 107 (which enables the Gambling Commission to issue copies of personal licences where lost, stolen or damaged), 113, 114 and 115, and
- (b) in Part 6—

- (i) section 134 (which requires a personal licence holder to produce the licence to a constable or enforcement officer),
- (ii) section 138 (which specifies actions to be taken by an operating licence holder where the holder of a personal licence is convicted of a relevant offence), and
- (iii) section 139 (which makes it an offence for the holder of a personal licence to act outside the terms and conditions of his licence in relation to activities authorised by an operating licence).

(4) In this paragraph, “relevant personal licence conditions” has the meaning given by paragraph 45(8).

Application of review provisions to section 19 certificates

48.—(1) Sections 116 to 122 of the 2005 Act (which make provision with respect to the review of operating licences) are to apply to section 19 certificates and the persons to whom such certificates are issued as they apply to personal licences and the holders of such licences, but with the modifications specified in the following provisions of this paragraph.

(2) In section 116(2) (scope of Gambling Commission’s powers to carry out a review) the reference to a condition of the personal licence is to have effect as a reference to any relevant personal licence conditions having effect in relation to the section 19 certificate.

(3) Following a review under subsection (2) of section 116, the Gambling Commission may—

- (a) attach an additional condition to the certificate, or
- (b) remove or amend a condition attached under this paragraph as a result of a previous review under that subsection

(4) Section 117(1) (regulatory powers of the Gambling Commission on a review) is to have effect—

- (a) as if paragraph (b) provided for the Gambling Commission to have power to attach an additional condition to the certificate under sub-paragraph (3) above,
- (b) as if paragraph (c) provided for the Gambling Commission to have power to remove or amend a condition attached to the certificate under that sub-paragraph, and
- (c) as if paragraph (d) were omitted.

(5) Section 118 (powers of Gambling Commission to suspend a personal licence following a review) is to have effect with the omission of subsection (3).

(6) Section 119 (powers of Gambling Commission to revoke a personal licence following a review) is to have effect with the omission of subsections (2) and (3).

(7) Section 120 (which specifies the conditions which are to apply if the Gambling Commission is to exercise its powers to suspend or revoke a personal licence) is to have effect with the omission of subsection (2), and in that section—

- (a) in subsection (1)(b), the reference to a condition of the licence having been breached is to have effect as a reference to a relevant personal licence condition having been breached; and
- (b) in subsection (3), the reference to carrying on the licensed activities is to have effect as a reference to performing the functions to which the section 19 certificate relates.

(8) In section 121 (which enables the Gambling Commission to impose financial penalties on personal licence holders) any reference (however expressed) to a breach of a condition of a personal licence is to have effect as a reference to a breach of a relevant personal licence condition.

(9) In section 122 (which enables the Gambling Commission to require a personal licence holder to provide information)—

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- (a) in subsection (1)(c), the reference to the licensed activities is to have effect as a reference to the performance of the functions to which the section 19 certificate relates;
 - (b) in subsection (4)—
 - (i) in paragraph (a), the reference to a condition of the personal licence is to have effect as a reference to any relevant personal licence conditions; and
 - (ii) in paragraph (b), reference to carrying on the licensed activities is to have effect as a reference to performing the functions to which the section 19 certificate relates.
- (10) Section 141 of the 2005 Act (which provides for appeals to the Gambling Appeals Tribunal) is to have effect in relation to a section 19 certificate as if—
- (a) in subsections (6) to (8), references to the Gambling Commission taking action, or determining to take action, under section 117, 118 or 119, included references to the Gambling Commission taking action, or determining to take action, under any of those sections in relation to the certificate;
 - (b) in subsection (9), the reference to the Gambling Commission giving notice of a penalty under section 121(4) included giving such a notice in relation to the certificate; and
 - (c) references to a licensee in those subsections included a reference to the holder of the certificate.
- (11) In this paragraph, “relevant personal licence conditions” has the meaning given by paragraph 45(8).

Interim personal licences

49.—(1) This paragraph applies to—

- (a) an advance application for a personal licence authorising the performance of the functions of a specified management office; or
- (b) an advance application for a personal licence authorising the performance of a relevant operational function, where the application is made by a person who holds a section 19 certificate.

(2) Where the application—

- (a) is made before 30th June 2007, and
- (b) complies with the requirements of section 69(2)(g) and (3) of the 2005 Act,

the Gambling Commission must determine the application and inform the applicant of its decision before the end of the period of two months beginning on the day after the day on which the application is made.

(3) Where the application is not finally determined before the end of the period referred to in sub-paragraph (2), the Gambling Commission is to be treated as having issued to the applicant on the day immediately following the end of that period a personal licence of the same description as that being applied for.

(4) Where the application is for a multiple licence which authorises the performance of more than one function, sub-paragraph (2) is to have effect as if it provided for the Gambling Commission to be treated as having issued a personal licence which—

- (a) in a case falling within sub-paragraph (1)(a), authorises the performance of the functions of any management office specified in the application;
- (b) in a case falling within sub-paragraph (1)(b), authorises the performance of any relevant operational functions specified in the application, or

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- (c) in a case falling within both paragraphs (a) and (b) of sub-paragraph (1), authorises the performance of the functions of any management office and any relevant operational functions specified in the application.
- (5) A personal licence deemed to have been granted by virtue of sub-paragraph (3) is referred to in this Part as an interim personal licence.
- (6) In this paragraph—
 - (a) “management office” has the meaning given to it by section 80(5) of the 2005 Act,
 - (b) “operational function” has the meaning given to it by section 80(6) of that Act, and
 - (c) “relevant operational function” means an operational function—
 - (i) which is to be performed in premises in respect of which a casino or bingo premises licence has effect, and
 - (ii) which falls within any of the descriptions in subsection (2) of section 19 of the 1968 Act.

Application of Part 5 of the Gambling Act 2005 to interim personal licences

50.—(1) Part 5 of the 2005 Act (as applied by section 128 of that Act to personal licences) is to have effect in relation to interim personal licences subject to the modifications specified in the following provisions of this paragraph.

(2) In exercising its powers under section 75 (powers of Gambling Commission to impose general conditions on personal licences), the Gambling Commission must specify any conditions which are to apply to an interim personal licence or an interim personal licence falling within a specified class.

(3) Where an interim personal licence has effect before the date on which the Commission publish in accordance with section 76(3) the specification of any condition which applies to the licence, the licence is to be subject to the condition on and after that date.

(4) Where an interim personal licence has effect on or after the date on which the Commission so publish the specification of any condition which applies to the licence, the licence is to be subject to the condition as soon as it has effect.

(5) Regulations under section 78 (which allows the Secretary of State to make regulations specifying conditions to be imposed on operating licences) may specify conditions which are to apply to each interim personal licence or to interim personal licences falling within a specified description.

(6) In subsection (2) of section 78, the reference to licences issued before regulations under that section are made is to include a reference to interim personal licences having effect before such regulations are made.

(7) Part 5 of the 2005 Act is to have effect as if sections 104 to 106 (which make provision respectively for applications to vary personal licences, amendments to licences, registration of licences and copies of licences) were omitted.

Application of Part 6 of the Gambling Act 2005 to interim personal licences

51.—(1) Part 6 of the 2005 Act is to have effect in relation to interim personal licences subject to the modifications specified in the following provisions of this paragraph.

(2) Section 131 (which provides for the duration of personal licences) is to have effect as if it provided for an interim personal licence to cease to have effect when the application referred to in paragraph 49(1) is finally determined, unless and until it ceases to have effect before that date in accordance with section 113, 114, 115, or 119 of the 2005 Act (which provide respectively for the surrender, lapse, forfeiture and revocation of operating licences).

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(3) Part 6 is to have effect as if sections 132 and 134 (which make provision as to fees and the production of personal licences) were omitted.

Personal licences issued before 1st September 2007

52.—(1) Subject to the following provisions of this paragraph, where a personal licence (including an interim personal licence) is issued under the 2005 Act before 1st September 2007, it is not to take effect until that date.

(2) Where a personal licence authorises a person to carry out one or more of the functions described in subsection (2) of section 19 on premises in respect of which a casino or bingo premises licence has effect, that person is to be treated for the purposes of subsection (1) of that section as if he had been issued with a certificate certifying that he has been approved by the Gambling Commission to perform the functions concerned on any premises in respect of which a licence under the 1968 Act has effect.

(3) Where a person is served with a notice under subsection (3) of section 19 of the 1968 Act, the person on whom the notice is served is to be treated for the purposes of subsection (4) of that section as having been approved by the Commission to act in the capacity for which the notice requires him to obtain approval if—

- (a) he has been granted a personal licence authorising the performance of the functions to which the notice relates, or
- (b) he has applied for such a licence and the application has not been finally determined.

(4) Where before 1st September 2007 the Gambling Commission revoke a personal licence to which sub-paragraph (2) or (3) applies in exercise of their powers under section 119 of the 2005 Act, the person who held the licence is to cease to be treated for the purposes of section 19(1) or (4) of the 1968 Act as having been approved to perform the functions whose performance had been authorised by the licence.