

**EXPLANATORY MEMORANDUM TO
THE GAMBLING ACT 2005 (CLUB GAMING AND CLUB MACHINE PERMITS)
(AMENDMENT) REGULATIONS 2007**

2007 No. 2689

1. This explanatory memorandum has been prepared by The Department for Culture, Media and Sport and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Description**

2.1 The Gambling Act 2005 (Club Gaming and Club Machine Permits) Regulations 2007 (SI 2007/1834) set the fees in relation to club gaming and club machine permits (“permits”), and specify the application form and the form of each permit. These amending regulations substitute the application form contained in Schedule 1 to those regulations, with the schedule contained here. They have been made to correct an error and omissions in the guidance notes on that form, and they also effect the removal of now redundant references to applications made before 1 September 2007.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 The original regulations were the first made under the Gambling Act 2005 (the Act) concerning these provisions.

4. **Legislative Background**

4.1 The explanation of the legislative background set out in the explanatory memorandum to the original Regulations remains unchanged, and should be referred to for a full explanation in respect of these Regulations.

4.2 The Act has introduced a new system of regulation for gambling in Great Britain, which has replaced the system of regulation set out in the Betting, Gaming and Lotteries Act 1963, the Gaming Act 1968 and the Lotteries and Amusements Act 1976.

4.3 The Act came fully into force on 1 September 2007 and on that date the majority of permissions issued under the previous legislation were replaced by new licences and permits prescribed by the new Act.

4.4 It is an offence under the Act to provide facilities for gambling (section 33), to use premises, or cause or permit premises to be used to make gaming machines available for use (section 37), and to make gaming machines available for use by another (section 242), unless this is done in accordance with a relevant operating licence or permit, or it falls under one of the exceptions provided in the Act.

4.5 Two exceptions from the above offences are where facilities for gaming are provided, or gaming machines are made available, in accordance with a club gaming permit (section 271) or a club machine permit (section 273). Club gaming permits may be issued to members' clubs (defined in section 266 of the Act), and miners' welfare institutes (defined in section 268 of the Act). Club machine permits may be issued to members' clubs, miners' welfare institutes and commercial clubs.

4.6 Clubs and institutes may apply to their licensing authority for a permit under Schedule 12, which sets out the procedural requirements for the administration of such permits. The Regulations which are amended here gave full effect to Schedule 12 by prescribing various fees that must be paid for some of the procedures, the form of the permit that is issued by authorities, and the form on which applications for such permits must be made.

5. Territorial Extent and Application

5.1 This instrument applies to England, Wales and Scotland.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 The explanation of the policy background set out in the explanatory memorandum accompanying the regulations amended here is unchanged.

7.2 Those Regulations, which are purely procedural, concern two distinct types of permit: club gaming permits and club machine permits. These amending Regulations only concern the application form for these permits, which was prescribed in Schedule 1 to the original regulations.

7.3 The form was designed to cater for applications (including applications for renewal) made by members' clubs, commercial clubs and miners' welfare institutes, for each of the two types of permit described above. It also enables fast-track applications for those holding a club premises licence under section 72 of the Licensing Act 2003, and applications by 'existing operators' who already hold equivalent permissions under the Gaming Act 1968.

7.4 These Regulations make the following changes to the application form in Schedule 1 to the original regulations:

- The questions in Section B of the form, which relate only to applications made before 1st September 2007, have been removed.
- The guidance note explaining the meaning of 'relevant date' has been amended to include cases where a registration has been renewed.
- The guidance at the end of Section B of the form has been amended to:

- (a) remove references to applications made before 1st September 2007;
 - (b) expressly address circumstances where an applicant has a registration under the Gambling Act 1968 that had effect on 31st August 2007 and is due to expire on a date after 31st August 2007 (in which case the guidance note now makes it clear that, subject to meeting the other criteria, such an applicant should also be treated as an ‘existing operator’); and
 - (c) for the avoidance of doubt, clarify that only holders of a Part 2 Registration may become entitled to a club gaming permit, and only holders of a Part 3 Registration may be entitled to a club machine permit.
- Consequential amendments (including some re-ordering) have been made to the questions in Section B.

7.5 These are matters of guidance, and do not affect the validity of the form or the legal entitlements of existing operators. The definition of an ‘existing operator’ is set out in regulation 3 of the Regulations, and the legal entitlements to effectively maintain existing permissions under a Part 2 or Part 3 registration under the 1968 Gaming Act are enshrined in The Gambling Act 2005 (Commencement No. 6 and Transitional Provisions) Order 2006. The original form is, however, potentially confusing for applicants and therefore it is appropriate to amend it.

7.6 In view of the fact that these amending regulations will come into force after 1st September 2007, we have taken this opportunity to remove now redundant references to applications made before that date.

7.7 The revised Section B is, therefore, shorter and simpler. It contains eight questions (which have been re-ordered) rather than twelve, and there are consequential changes to the notes section, which are briefly described in paragraph 7.7 above.

7.8 Applications that are made on the existing form before these amending Regulations come into force will not be invalidated and should continue to be processed by local licensing authorities.

7.9 We have written to the Local Authority Co-ordinators of Regulatory Services (LACORS) informing them of our intention to lay these amending regulations, and, in the interests of clarity, setting out all the circumstances in which an applicant may apply for a club gaming or club machine permit as an existing operator. We have also highlighted where these circumstances are not clearly set out on the existing form.

8. Impact

8.1 The Regulatory Impact Assessment which accompanied the original Regulations is not affected by this amendment and should be referred to in respect of these Regulations.

9. Contact

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