

EXPLANATORY MEMORANDUM TO
THE GAMBLING ACT 2005 (PREMISES LICENCES) (REVIEW)
(AMENDMENT) REGULATIONS 2007

2007 No. 3539

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.

2. Description

2.1 These Regulations amend the Gambling Act 2005 (Premises Licences) (Review) Regulations 2007¹, which specify matters relating to the procedure for a review of a premises licence granted under Part 8 of the Gambling Act 2005 (“the Act”).

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

3.1 None.

4. Legislative Background

4.1 The Act establishes a new system of regulation for all gambling in Great Britain, other than the National Lottery and spread betting. The Act establishes a new regulator for gambling, the Gambling Commission, and a new licensing regime for commercial gambling. As part of the licensing regime, the Act provides for three main types of permission: operating and personal licences which are issued by the Gambling Commission, and premises licences which are issued by licensing authorities. In England and Wales, local authorities are the licensing authorities and, in Scotland, it is licensing boards.

4.2 Part 8 of the Act sets out the provisions relating to premises licences. It provides for different types of premises licence depending on the nature of the gambling to be provided. A premises licence once issued is of indefinite duration and ceases only if it is surrendered by the holder, or if it lapses because the licensee dies, becomes incapable of carrying on the licensed activities, or becomes bankrupt etc. Where none of these matters take place the only way in which the licence can be brought to an end is if it is revoked following a review by the licensing authority.

4.3 Sections 197 to 203 of the Act set out the provisions relating to a review of a premises licence. A review can be initiated in one of two ways: either following an application being made by a responsible authority or an interested

¹ S.I. 2007/2258

party (as defined respectively in sections 157 and 158 of the Act); or the licensing authority can itself initiate a review.

4.4 Where a review takes place, the licensing authority must hold a hearing unless the licence holder and any interested parties or responsible authorities making representations agree to the review being disposed of without a hearing. Following a review the licensing authority has the power to revoke the premises licence, suspend it for up to 3 months, or to modify the conditions of the licence. The licensing authority must give notice of its decision to the licence holder, the applicant for the review (if any), the Gambling Commission, other specified authorities and any person who made representations on the review. An appeal against the licensing authority's decision may be made by the licence holder, the applicant for the review, any person who made representations and the Gambling Commission.

4.5 The Act provides for certain matters relating to reviews to be set out in subordinate legislation. These include in particular the form of the application for a review, and of the notices to be given and published in respect of a review, and the manner in which each of these things are to be done. The Act also provides for regulations to make provision about the period for making representations by the licence holder, responsible authorities and interested parties. Such provisions are now contained in The Gambling Act 2005 (Premises Licences) (Review) Regulations 2007 (referred to in this explanatory memorandum as the "Principal Regulations").

4.6 As part of the premises licence review procedure, the Principal Regulations require licensing authorities to give notice of their intention to conduct a premises licence review ("a review") to responsible authorities, and make provision where an authority fails to give proper notice to a responsible authority of such a review. However, section 200(3)(a) of the Gambling Act 2005 only requires licensing authorities to give notice of their intention to conduct a review to the premises licence holder; it does not require such notice to be given to responsible authorities.

4.7 These Regulations remove the requirement for licensing authorities to notify responsible authorities of their intention to hold a review, and the related provisions relating to failure to give proper notice. The Regulations also make a consequential change to the heading to Schedule 4 to the Principal Regulations (in which the prescribed form of the notice is set out).

5. Territorial Extent and Application

5.1 This instrument applies to England and Wales.

5.2 Some of the provisions in the Principal Regulations apply only in relation to England and Wales; and some provisions apply in relation to England and

Wales and Scotland. These Regulations amend provisions in the Principal Regulations which apply only in relation to England and Wales.

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 purpose of the Act is best summed up by its licensing objectives which are:

- Preventing gambling from being a source of crime and disorder, being associated with crime and disorder or being used to support crime and disorder;
- Ensuring that gambling is conducted in a fair and open way;
- Protecting children and other vulnerable persons from being harmed or exploited by gambling.

In addition, the Act also updates and consolidates previous gambling legislation.

7.2 These objectives are specifically built in to the premises licensing system under Part 8 of the Act. Section 153 sets out the principles which licensing authorities are to apply in exercising their functions under Part 8. In particular, it requires licensing authorities, amongst other things, to permit the use of premises for gambling in so far as they think it is reasonably consistent with the licensing objectives. Reviews, as a function of licensing authorities under Part 8, are also subject to the principles set out in section 153 of the Act.

7.3 An aspect of Part 8 of the Act is that it ensures that the local community and those public authorities with an appropriate local interest (such as the police, the local planning authority, the fire and rescue authority for the area, an environmental protection authority for the area, a child protection authority and the HMRC) are able to participate in decisions relating to premises licences, by means of representations. Responsible authorities are the public authorities referred to above; and interested parties are residents and businesses likely to be affected by the activities at the premises, or organisations representing such persons.

7.4 . Where an application is made for a review of a premises licence, the applicant must notify the licensee and responsible authorities of the application. The Act allows representations to be made by responsible authorities and interested parties in respect of the application.

Where a review is initiated by the licensing authority, the authority must notify the licensee that it is intending to conduct a review of the premises licence.

However, there is no requirement for licensing authorities to notify responsible authorities of such a review.

7.5. These regulations remove the requirement for licensing authorities to notify responsible authorities of the intention to hold a review, initiated by themselves. This provision was inconsistent with the provisions of the Act.

8. Impact assessment

8.1 These regulations make a technical amendment to SI 2007/ 2258 and therefore no impact to business, charities or voluntary bodies is foreseen. A full impact assessment was completed for SI 2258.

9. Contact

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