

## SCHEDULE 4

### Transitional provisions

## PART 10

### Conversion of permits under section 34 of the Gaming Act 1968 into family entertainment centre gaming machine permits

#### **Meaning of existing operator for the purposes of applications for family entertainment centre gaming machine permits**

**94.**—(1) This paragraph specifies the circumstances in which a person applying for a family entertainment centre gaming machine permit (referred to in this Part as a “FEC gaming machine permit”) is to be treated for the purposes of this Part as an existing family entertainment centre operator.

(2) A person is an existing family entertainment centre operator if on the date on which he makes the application for the FEC gaming machine permit—

- (a) he holds a permit under section 34 of the 1968 Act<sup>(1)</sup> (referred to in this Part as a “section 34 permit”)—
  - (i) granted by one of the authorities mentioned in paragraph 1(b) or (d) of Schedule 9 to the 1968 Act<sup>(2)</sup> in respect of amusement machine premises, and
  - (ii) which is expressed to be granted for the purposes of section 34(1) of the 1968 Act<sup>(3)</sup>;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- (b) he is applying for such a permit, and the application (including any appeal) has not been finally determined or withdrawn.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 34 permits into FEC gaming machine permits**

**95.**—(1) Subject to the following provisions of this Part, where—

- (a) an existing family entertainment centre operator makes an advance application for a FEC gaming machine permit under Schedule 10 to the 2005 Act,
- (b) the application relates to the same or substantially the same premises as those to which the section 34 permit relates, and
- (c) the application complies with any requirements imposed by or under paragraphs 2 to 4 and 5(b) and (d) of that Schedule,

the licensing authority must grant that application.

(2) Paragraphs 8(1)(b), 9 and 10 of Schedule 10 to the 2005 Act are not to apply to such an application.

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(1) Section 34 was amended by [S.I. 1996/1359](#) and [S.I. 2003/3275](#).

(2) Sub-paragraph (b) of paragraph 1 was partially repealed by the Local Government Act 1972 (c. 70), Schedule 30. Sub-paragraph (d) of paragraph 1 was amended by the Local Government (Scotland) Act 1973 (c. 65), Schedule 24, paragraph 32, and by the Local Government etc. (Scotland) Act 1994, Schedule 13, paragraph 78(4).

(3) Subsection (1) was amended by [S.I. 1996/1359](#).

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### **Failure to make the application for a FEC gaming machine permit in the appropriate form or manner**

**96.**—(1) This paragraph applies to any application for a FEC gaming machine permit which meets the conditions in paragraphs (a) to (c) of paragraph 95(1), but does not comply with a requirement imposed under sub-paragraph (a) or (c) of paragraph 5 of Schedule 10 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 95(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).

(4) If, in a case to which paragraph 98 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 FEC gaming machine 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 34 permit**

**97.**—(1) Where—

- (a) a person makes an application for a FEC gaming machine permit which meets the conditions in paragraphs (a) to (c) of paragraph 95(1), and
- (b) the section 34 permit by virtue of which he qualifies as an existing family entertainment centre operator is cancelled,

the licensing authority must reject the application.

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

(3) Where the section 34 permit is cancelled after the licensing authority have issued the FEC gaming machine permit in pursuance of paragraph 95(1), the permit is to lapse on the date on which the section 34 permit is cancelled.

### **Provisions to ensure that existing family entertainment centre operators can continue to operate on and after 1st September 2007**

**98.**—(1) This paragraph applies to an application for a FEC gaming machine permit which meets the conditions in paragraphs (a) to (c) of sub-paragraph (1) of paragraph 95, 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 FEC gaming machine 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 FEC gaming machine permit is treated as having been issued to a person, paragraph 8(3) of Schedule 10 to the 2005 Act (which makes provision about the issuing of FEC gaming machine 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 11(1)(c) of Schedule 10 to the 2005 Act (which requires the date on which a FEC gaming machine permit takes effect to be specified in the permit), the licensing authority are to specify 1st September 2007 as the date on which the FEC gaming machine permit takes effect.

### **Conversion of section 34 permits into FEC gaming machine permits: supplementary provisions**

**99.**—(1) This paragraph applies to an advance application for a FEC gaming machine permit where the person making the application qualifies as an existing family entertainment centre operator by virtue of paragraph 94(2)(b).

(2) Paragraph 95(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 34 permit relates, and”.

(3) Where the application meets the conditions in paragraphs (a) to (c) of sub-paragraph (1) of paragraph 95, that sub-paragraph is to be modified so that—

- (a) the licensing authority may not determine the application for a FEC gaming machine permit before the application for the section 34 permit has been determined;
- (b) the licensing authority are only to be under a duty to grant the application for a FEC gaming machine permit if the application for the section 34 permit is granted; and
- (c) the licensing authority must reject the application for a FEC gaming machine permit if the application for the section 34 permit is refused.

(4) Sub-paragraph (3) is subject to paragraph 100(2).

(5) The following provisions of this paragraph apply where the application is one to which paragraph 98 applies.

(6) Sub-paragraph (2) of paragraph 98 is to be subject to paragraph (3) above.

(7) Where—

- (a) the application for the section 34 permit is granted before 1st September 2007, but
- (b) it is granted after the day referred to in sub-paragraph (3) of paragraph 98,

that sub-paragraph is to have effect as if it provided for the application to be treated as having been granted and the relevant FEC gaming machine permit issued on the date on which the application for the section 34 permit is granted.

(8) Sub-paragraphs (2) and (3) of paragraph 98 are not to apply where the application for the section 34 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 34 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.

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**Conversion of section 34 permits into FEC gaming machine permits: supplementary provisions where premises are situated in Scotland**

**100.**—(1) This paragraph applies in any case falling within paragraph 99 where the premises to which the application for the section 34 permit relates are situated in Scotland.

(2) Paragraph 99 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 sub-paragraph (1) of paragraph 95, that sub-paragraph is to be modified so that—

- (a) the licensing authority may not determine the application for a FEC gaming machine permit until the applicant notifies it in writing of the determination of the application for the section 34 permit;
- (b) the licensing authority are only to be under a duty to grant the application for a FEC gaming machine permit if—
  - (i) the application for the section 34 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; and
- (c) the licensing authority must reject the application for a FEC gaming machine permit if the application for the section 34 permit is refused.”

(3) Subject to sub-paragraphs (4) and (5) below, where sub-paragraph (3) of paragraph 98 applies because the application for the section 34 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 FEC gaming machine permit as soon as practicable on or after the date on which they are notified of the grant of the application for the section 34 permit and provided with a copy of the permit.

(4) Where paragraph 98(3) applies because the application for the section 34 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 34 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 98(3).