

EXPLANATORY MEMORANDUM TO
THE GAMBLING ACT 2005 (PREMISES LICENCES AND PROVISIONAL
STATEMENTS) (AMENDMENT) (ENGLAND AND WALES) REGULATIONS 2007

2007 No. 1775

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 The Regulations amend the Gambling Act 2005 (Premises Licences and Provisional Statements) Regulations 2007 (S.I. 2007/459) which make provision about premises licences and provisional statements issued under Part 8 of the Gambling Act 2005. The Regulations make changes to the matters to be shown in the plan accompanying an application for a converted casino premises licence to ensure that the relevant provisions are consistent with the Gambling Act 2005 (Premises Licences) (Mandatory and Default) Regulations 2007 (S.I. 2007/1409). The Regulations also correct a cross-reference in the Gambling Act 2005 (Premises Licences and Provisional Statements) Regulations 2007.

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

3.1 None.

4. Legislative Background

4.1 The Gambling Act 2005 (“the Act”) establishes a new system of regulation for all gambling in Great Britain, other than the National Lottery and spread betting. The Act introduces 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 under the Act 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. Part 8 also specifies the matters to be included in a premises licence. By virtue of section 151(1)(g) of the Act, a premises licence must include a plan of the premises. Part 8 makes provision with respect to applications for premises licences and for the issuing of such licences. These include provisions for responsible authorities (listed in section 157) and interested parties to have the right to make representations on applications. There are also provisions in Part 8 on the duration, transfer, variation, reinstatement and review of premises licences, and mechanisms by which appeals may be made.

4.3 Part 8 leaves matters relating to the form and content of applications, the form and manner of notices of application, the form of notices of grant or rejection of applications, and the form and content of a premises licence to be specified in subordinate legislation. The Gambling Act 2005 (Premises Licences and Provisional Statements) Regulations 2007 (“the Principal Regulations”) make provision with respect to these matters. In particular, regulation 4 of the Principal Regulations requires an application for a premises licence to be accompanied by a plan of the premises. Different requirements apply under regulation 4 for different types of premises licences.

4.4 Regulation 4 is also relevant to applications to vary a premises licence and to the plan which forms part of the premises licence itself. By virtue of regulation 7 of the Principal Regulations, an application to vary a premises licence must be accompanied by a plan if the variations entail a change to the plan attached to the licence. In such a case the plan must show any proposed variations, but must otherwise comply with regulation 4. By virtue of regulation 21 of the Principal Regulations, the plan attached to a premises licence must also comply with the requirements of regulation 4.

4.5 The main purpose of these Regulations is to amend the requirements of regulation 4 relating to converted casino premises licences. Transitional provisions with respect to the 2005 Act make provision for the conversion of premises based permissions under existing gambling legislation into the equivalent premises licence under the 2005 Act. These include provisions for casino licences granted under the Gaming Act 1968 to be converted into casino premises licences under the 2005 Act. Under the relevant transitional provisions the operator must still apply for the relevant premises licence under the 2005 Act, but (subject to certain exceptions) the licensing authority is bound to grant the application.

4.6 Where the application is for a casino premises licence, then under regulation 4 of the Principal Regulations the accompanying plan must show the principal entrance to the casino, the location and extent of any table gaming areas, the location and extent of any other part of the premises used for gambling, and the location and extent of any non-gambling areas. These requirements apply to applications for converted casino premises licences in the same way as they apply to applications for other types of casino premises licence.

4.7 These Regulations amend regulation 4 of the Principal Regulations so that different requirements apply to the plan accompanying a converted casino premises licence application from those which apply in the case of applications for other types of casino premises licence. As amended, the plan is not required to identify any table gaming areas, but only to indicate those areas used for gambling (whether or not they are used for table gaming). Further, as amended, the plan is only required to show non-gambling areas if the combined floor area of those parts of the premises used for gambling is 200 square metres or more. The reason for making these changes is to align the position under the Principal Regulations with that under the Gambling Act 2005 (Premises Licences) (Mandatory and Default) Regulations 2007. Under those regulations, converted casino premises licences are not subject to a condition requiring a separate table gaming area to be provided. Similarly, the condition requiring the provision of a non-gambling area only applies where the gambling area of the casino is 200 square metres or more.

4.8 Regulation 12(1) of the Principal Regulations makes provision for a person making an application under Part 8 of the Act to give notice of their application to the responsible authorities listed in section 157 of the Act. Regulation 13 makes provision dealing with the circumstances where an applicant fails to give proper notice under regulation 12(1). Paragraph (6) of regulation 13 incorrectly refers to the notice as a notice under regulation 12(2). These Regulations correct that error.

5. Territorial Extent and Application

5.1 The Regulations apply to England and Wales.

5.2 The Principal Regulations apply to Great Britain, but only in limited respects to Scotland. The amendments made by these Regulations affect provisions of the Principal Regulations which apply to England and Wales only.

6. European Convention on Human Rights

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

7. Policy background

7.1 The Act provides for the Secretary of State to prescribe the form and manner of applications for a premises licence and the documents to be submitted with any such application. The Principal Regulations require applicants to submit a plan of the premises to be submitted. In the context of the Act, premises include casinos (both new ones and those which have previously been licensed under the Gaming Act 1968- referred to below as “existing casinos”), bingo establishments, arcades, tracks and sporting venues which offer gambling and betting shops.

7.2 The Principal Regulations require the application to be accompanied by a plan showing the layout of the premises. The information to be included in the plan varies according to the type of premises. One of the reasons for requiring the plan is to enable the licensing authority to be satisfied that the premises will be able to comply with the mandatory conditions which will be attached to the premises licence under the Gambling Act 2005 (Premises Licences) (Mandatory and Default) Regulations 2007 (“the Mandatory Conditions Regulations”).

7.3 The Mandatory Conditions Regulations impose minimum size requirements for the table gaming area for each of the types of new casino (regional, large and small). It does not however impose any such requirement for the table gaming area of an existing casino. The Mandatory Conditions Regulations also require regional, large and small casinos to provide non-gambling areas which meet specified size requirements. This requirement applies to existing casinos but only those where the gambling area is at least 200 square metres in size.

7.4 The Principal Regulations do not make any distinction between the plans to accompany premises licence applications relating to existing casinos and those for other casinos. In both cases, the plan must in all circumstances show the table gaming areas and the non-gambling areas. This means that in the case of existing casinos there is a

mismatch between the requirements of the Mandatory Conditions Regulations and the Principal Regulations. The government does not consider any need is served by having the requirements for the plan exceed those imposed by the Mandatory Conditions Regulations. For this reason the Principal Regulations are being amended to ensure that, where an application relates to an existing casino, the plan is not required to show table gaming areas and is only required to show non-gambling areas where the gambling area of the casino is at least 200 square metres.

7.5 These Regulations also correct a cross-reference in regulation 13(6) of the Principal Regulations.

8. Impact

8.1 These Regulations will have no impact on industry or the voluntary sector and there is therefore no Regulatory Impact Assessment attached to this memorandum.

9. Contact

Jennifer Smith at the Department for Culture, Media and Sport (Tel: 0207 211 6420 or e-mail: Jennifer.smith@culture.gsi.gov.uk) can answer any queries regarding the instrument.