

GAMBLING ACT 2005

Information Sheet

CLUB GAMING AND MACHINES

Club gaming permits and club machine permits

Schedule 12 of the Gambling Act 2005 (“the Act”) sets out the application process and regulatory regime for club gaming permits and club machine permits. In exercising a function under Schedule 12, licensing authorities must have regard to the statutory guidance issued by the Gambling Commission and, subject to the guidance, the licensing objectives.

This information sheet covers the types of premises as described below. A club gaming permit or club machine permit may not be issued in respect of a vessel or vehicle.

Under section 271 of the Act, a licensing authority may grant members’ clubs and miners’ welfare institutes (but not commercial clubs) club gaming permits which authorise the establishments to provide gaming machines (as well as equal chance gaming and games of chance as prescribed in regulations). The club gaming permit has certain conditions, including that in respect of gaming machines no child or young person uses a category B or C machine on the premises and that the holder *complies with any relevant provision of a code of practice about the location and operation of gaming machines*. A copy of the Code of Practice on Machine Permits is available on the Commission’s website www.gamblingcommission.gov.uk.

If a club does not wish to have the full range of facilities permitted by a club gaming permit or if they are a commercial club not permitted to provide non-machine gaming (other than exempt gaming under section 269 of the Act), they may apply to the licensing authority for a club machine permit under section 273 of the Act. This authorises the holder to have up to three gaming machines of categories B4, C or D (ie three machines in total). Members’ clubs and miners’ welfare institutes (but not commercial clubs) are entitled to site category B3A gaming machines offering lottery games in their clubs. However, the limit of three machines remains.

Section 273 sets out the conditions that will apply to the club machine permit, including that in respect of gaming machines no child or young person uses a category B or C machine on the premises and that the holder *complies with any relevant provision of a code of practice about the location and operation of gaming machines*. It should be noted that clubs do not have to have permanent premises or an alcohol licence.

Members’ Clubs

Members’ clubs must have at least 25 members and be established and conducted “wholly or mainly” for purposes other than gaming, unless the gaming is permitted by separate regulations. It is anticipated that this will cover bridge and whist clubs, which will replicate the position under the Gaming Act 1968. A members’ club must be permanent in nature, not established to make commercial profit, and controlled by its members equally. Examples include working men’s clubs, branches of the Royal British Legion and clubs with political affiliations.

The Secretary of State has the power to allow particular types of gaming and it is expected that pontoon and chemin de fer will be permitted. This replicates the position under the Gaming Act 1968.

Commercial Clubs

Commercial clubs have the same characteristics as members' clubs, except that the key difference is that they are established with a view to making a profit. An example of a commercial club is a snooker club.

Miners' welfare institutes

The definition of this class of club has changed to reflect social and economic changes since their establishment. These are associations established for recreational or social purposes. They are managed by representatives of miners or use premises regulated by a charitable trust which has received funds from one of a number of mining organisations. Miners' welfare institutes are entitled to site category B3A gaming machines offering lottery games in their clubs.

Alcohol premises licence

Schedule 12 covers only those places in England and Wales with an "on-premises licence" that have a bar at which alcohol is served, without a requirement that alcohol is served with food. This definition is not the same as that contained in the Licensing Act 2003. So any hotel, restaurant or pub that has a bar will be able to offer gambling under part 12, but hotels and restaurants that serve alcohol only with food will not.

Bingo in clubs and alcohol-licensed premises

Clubs and institutes will be able to provide facilities for playing bingo under section 281 of the Act, or in accordance with a permit under section 271, provided that the restrictions in section 275 are complied with. These include that in any seven day period the aggregate stakes or prizes for bingo must not exceed £2,000. If that limit is breached the club must hold a bingo operator's licence and the relevant operating, personal and premises licences must be sought. To help clubs and institutes to comply with the full range of statutory requirements for gaming, the Commission has developed a statutory code of practice. *The Code of Practice for gaming in clubs and premises with an alcohol licence* is available from www.gamblingcommission.gov.uk.

Club gaming permits

Club gaming permits replace the permissions provided by Part II registration under the Gaming Act 1968.

Under section 271 of the Act, licensing authorities may grant members' clubs and miners' welfare institutes (but not commercial clubs) club gaming permits which authorise the establishments to provide gaming machines, equal chance gaming and games of chance as prescribed in regulations. This is in addition to the exempt gaming authorisation under section 269 of the Act.

Club gaming permits allow the provision of no more than three gaming machines. These may be from categories B3A, B4, C or D. The club is permitted to choose the combination of machines on its premises.

The club gaming permit also allows the club to provide facilities for gambling, providing the gambling meets the following conditions:

(a) in respect of equal chance gaming:

- the club does not deduct money from sums staked or won;
- the participation fee does not exceed the amount prescribed in regulations;
- the game takes place on the premises and is not linked with a game on another set of premises. Games may be considered to be linked if:
- the result of one game is, or may be, wholly or partly determined by reference to the result of the other games;
- the amount of winnings is wholly or partly determined by the participation of more than one set of players;
- the game is split by sites so that part of one game is played on one site and another part is played elsewhere;
- the holder complies with any relevant code of practice about equal chance gaming.

(b) in respect of other games of chance:

- the games are prescribed in regulations. For example, currently pontoon and chemin de fer;
- that no participation fee is charged otherwise than in accordance with the regulations;
- that no amount is deducted from sums staked or won otherwise than in accordance with the regulations;

(c) in respect of gaming machines:

- that no child or young person uses a category B or C machine on the premises;
- that the holder complies with any relevant provision of a code of practice about the location and operation of gaming machines; and

(d) that the public, children and young persons are excluded from any area of the premises where the gaming is taking place.

There will be a limit on stakes and prizes for poker played in those clubs and institutes that do not hold a club gaming permit issued by the local licensing authority. The introduction of these limits reflects significant recent growth in the popularity of poker and the need to address the particular risks associated with such gaming.

The statutory regulations impose a stakes limit of £10 per person per game, within a premises limit of up to £250 in stakes per day and £1,000 in a week. The maximum fees that clubs may charge their members for participating in gaming has been set at £1 per day (or £3 if they hold a club gaming permit).

Clubs and institutes holding a club gaming permit would also be able to provide facilities for specified banker's games. To help clubs and institutes to comply with the full range of statutory requirements for gaming, the Commission has developed a statutory code of practice on equal chance gaming in consultation with interested parties. The *Code of Practice for gaming in clubs and premises with an alcohol licence* is available from the Commission's website. The provisions of the code (which also applies to alcohol-licensed premises) include:

- ensuring that young people and children are protected by excluding them from gaming (even if they are permitted into the premises); and

- ensuring that gaming is fair and open by requiring close supervision of the games, record keeping (as appropriate), the need for standard rules and the display of stakes and prizes limits and the rules during play.

A 48 hour rule applies in respect of all three types of gaming, so that the game may only be played by people who have been members of the club for at least 48 hours, or have applied or been nominated for membership or are genuine guests of a member.

Club machine permits

Club machine permits replace the permissions provided by Part III registration under the Gaming Act 1968.

If a members' club or a miners' welfare institute does not wish to have the full range of facilities permitted by a club gaming permit, they may apply to the licensing authority for a club machine permit under section 273 of the Act. This authorises the holder to have up to three gaming machines of categories B3A, B4, C and D.

Commercial clubs are not permitted to provide non-machine gaming (other than exempt gaming under section 269 of the Act) so they should apply for a club machine permit, however they will not be able to site category B3A gaming machines offering lottery games in their club.

There are a number of premises that are not licensed to sell alcohol but that have been entitled under section 31 of the Gaming Act 1968 to site gaming machines, by virtue of being registered under part II or part III of that Act.

These include works premises which operate membership-based social clubs. The Act allows these premises to apply for a club machines permit. Before granting the permit the authority will need to satisfy itself that the premises meet the requirements of a members' club and may grant the permit if the majority of members are over 18. The permit will allow up to three machines of category B4, C or D. If under-18s use the club, for example they are apprentices, they may play the category D but not the B4 or C machines. If the club is a genuine members' club it will be entitled to site category B3A gaming machines offering lottery games.

Holders of alcohol-licensed premises gaming machine permits and club permits will be required to comply with a code of practice, which has been drawn up by the Commission on the location and operation of machines. Information about this code can be found on the Commission's website.

Applications for club gaming permits and club machine permits

The Secretary of State has made regulations setting out certain requirements in relation to applications for these permits. These are *SI 1834/2007 - The Gambling Act 2005 (Club Gaming and Club Machine Permits) Regulations 2007*.

Applications must be made to the licensing authority in whose area the premises are located, and subject to the following:

- (a) specify the premises in relation to which the permit is sought;
- (b) made in the form prescribed by the regulations;
- (c) be accompanied by the prescribed information and documents; and
- (d) be accompanied by the prescribed fee.

A club or institute making an application for a permit must send a copy of an application and any accompanying documents to:

- The Gambling Commission; and

- The chief officer of police for the licensing area

Within a period of 7 days beginning on the date on which the application is made. If a club or institute fails to comply with these requirements, the application and any permit which may subsequently be issued will have no effect. *The relevant contact addresses are attached as Appendix A to these guidance notes.*

Application fees payable and documentation required

Where an application for either a club gaming permit or club machine permit is made by an existing Part 2 or Part 3 operator¹, the application form must be accompanied by a copy of the applicant's existing certificate under the Gaming Act 1968 and the application fee of £100.

For new applicants who are not existing operators, the fee will be £200.

The Gambling Commission and the police may make objections to the licensing authority in respect of the grant of a permit within a period of 28 days beginning on the date on which the application was made.

The police and Gambling Commission must send two copies of a written statement to the licensing authority setting out the reasons for the objection.

If objections are made the licensing authority must hold a hearing (unless consent has been given to dispense with it), otherwise no hearing is necessary.

A licensing authority may grant or refuse a permit, but it may not attach any conditions to a permit. The authority has to inform the applicant, the Commission and the police of the outcome of the application and of any objections made.

Licensing authorities may only refuse an application on the grounds that:

- (a) the applicant does not fulfill the requirements for a members' or commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has applied;
- (b) the applicant's premises are used wholly or mainly by children and/or young persons;
- (c) an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
- (d) a permit held by the applicant has been cancelled in the previous ten years;
- (e) an objection has been lodged by the Commission or the police.

If the authority is satisfied that (a) or (b) is the case it must refuse the application. Licensing authorities shall have regard to relevant guidance issued by the Commission and (subject to that guidance), the licensing objectives.

¹ An "existing Part 2 or Part 3 operator" means an applicant – who is currently registered under Part 2 or Part 3 of the Gaming Act 1968 and whose application relates to the same or substantially the same premises as those to which the registration relates.

Fast-track procedure

There is a fast-track procedure for clubs in England and Wales which hold a club premises certificate under section 72 of the Licensing Act 2003. Under the fast-track procedure there is no requirement for a copy of the application form to be served on the police and Gambling Commission and similarly there is no opportunity for objections to be made by the Commission or the police, and the grounds upon which an authority can refuse a permit are reduced. This is because the club or institute will already have been through a licensing process in relation to its club premises certificate under the 2003 Act, and it is therefore unnecessary to impose the full requirements of schedule 12.

The grounds on which an application under this process may be refused are that:

- a) the club is established primarily for gaming, other than gaming prescribed under schedule 12;
- b) in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
- c) a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled.
- d) The fee to accompany a fast-track application is £100.

Form of permit

The permit must be in the prescribed form and must specify:

- I. The name of the club or institute in respect of which it is issued,
- II. The premises to which it relates,
- III. Whether it is a club gaming permit or a club machine permit,
- IV. The date on which it takes effect, and
- V. Such other information that may be prescribed.

Maintenance of permit

The holder of a permit must ensure that it is kept on the premises to which it relates and it must be produced on request for inspection by a constable, enforcement officer or local authority officer. An offence would be committed if, without reasonable excuse, the permit was not able to be produced on request.

Lost, stolen or damaged permit

If a permit is lost, stolen or damaged, the holder may apply to the issuing licensing authority for a copy. The application must be accompanied by the prescribed fee of £15.

Duration of permit

The permit will have effect for ten years, unless it ceases to have effect because it is surrendered or lapses or is renewed.

Renewal of permit

An application for renewal of a permit must be made no earlier than three months before and no later than six weeks before the permit expires. The procedure for renewal is the same as for an application.

The duration of the permit will not be curtailed while a renewal application is pending, including any appeal against a decision not to renew.

The renewal application form must be accompanied by a copy of the existing permit and the fee to accompany a renewal application will be £200 or, in respect of a fast-track application, the renewal fee will be £100.

Annual fee

The holder of a permit shall pay a first annual fee to the issuing licensing authority within 30 days after the permit comes into effect or within 12 months from the issue date, whichever is the sooner, and thereafter shall pay an annual fee of £50 to the licensing authority before each anniversary of the issue of the permit.

Variation of permit

Permits may be amended to meet changing circumstances. Licensing authorities may only refuse a variation if on consideration of a completely new application they would refuse the permit. The fee to accompany an application to vary a permit is £100.

Lapse and surrender of permit

A permit will lapse if the holder of the permit stops being a club or miners' welfare institute, or if it no longer qualifies under the fast-track system for a permit. In addition, a permit will cease to have effect upon being surrendered to the licensing authority. A notice to surrender must be accompanied by the permit or a statement explaining why it cannot be produced. The licensing authority must inform the police and Commission when a permit has been surrendered or lapsed.

Cancellation and forfeiture of a permit

The licensing authority may cancel a permit:

- I. If the premises are used wholly or mainly by children or young persons;
- II. If an offence or a breach of a permit condition has been committed in the course of gaming activities by the permit holder. *Reference here to a "condition" means a condition in the Act or in regulations that the permit is operating under.*

Before the licensing authority cancels a permit, it must:

- notify the holder giving 21 days notice of intention to cancel;
- consider any representations made by the holder;
- hold a hearing if requested; and
- comply with any other prescribed requirements relating to the procedure to be followed.

Where the authority cancels the permit, the cancellation does not take effect until the period for appealing against that decision has elapsed, or (where an appeal has been lodged), until that appeal is determined.

If a licensing authority cancels a permit they must give notice of the cancellation and reasons for it to:

- (a) the holder;
- (b) the Gambling Commission; and
- (c) the police.

The authority can also cancel a permit if the holder fails to pay the annual fee (unless failure is the result of an administrative error). The court may order forfeiture of the permit if the holder is convicted of a relevant offence.

Appeals

The applicant for a permit may appeal to the magistrates' court against the decision of the licensing authority to refuse to issue a permit.

The holder of a permit may also appeal against a decision to cancel a permit.

Register and information to the Gambling Commission

Licensing authorities are required to maintain a register of permits together with other information as may be specified in regulations. They must make arrangements so that the register is available to the public and also to allow for a copy of any entry or information contained in the register to be provided to members of the public on request. The licensing authority will be able to charge for the provision of copies.

Future regulations made by the Secretary of State may include provisions requiring:

- licensing authorities to give the commission information about the permits issued by them;
- the maintenance by the Commission of a register of the information supplied to it; and;
- access without charge to the register maintained by the Commission, and the provision of copies of entries on payment of a fee.

Appendix A

Contact details

For further advice and guidance and to submit application forms for permits and accompanying documents:

The Senior Licensing Officer
Mole Valley District Council
Pippbrook
Dorking
Surrey
RH4 1SJ
Tel: 01306 879351
Fax: 01306 879329
Email: Licensing@molevalley.gov.uk
Website: www.molevalley.gov.uk

Copies of application forms and accompanying documents (except for applications under the fast-track procedure) must be sent to:

The Gambling Commission
Victoria Square House
Victoria Square
Birmingham
B2 4BP
Tel: 0121 230 6500
Fax: 0121 233 1096
E-mail: info@gamblingcommission.gov.uk
Website: www.gamblingcommission.gov.uk

The Licensing Officer
Surrey Police
Reigate Police Station
79 Reigate Road
Reigate
Surrey
RH2 0RY
Tel: 0845 125 2222