

SCHEDULE 4

Transitional provisions

PART 9

Conversion of club registrations under the Gaming Act 1968 into club gaming and machine permits under the Gambling Act 2005

Conversion of a club registration under Part 2 of the Gaming Act 1968 into a club gaming permit: scope of application of provisions

78.—(1) Paragraphs 79 to 81, 83 and 84 apply to a members' club or miners' welfare institute⁽¹⁾ where—

- (a) the club or institute is registered under Part 2 of the 1968 Act, and
- (b) the registration has effect immediately before 1st September 2007.

(2) Paragraphs 79 to 81, 83 and 84 also apply to a members' club or miners' welfare institute which is registered under Part 2 of the 1968 Act on or after 1st September 2007.

(3) In paragraphs 79, 80, 83 and 84, a reference to the relevant licensing authority is to the licensing authority (within the meaning of the 2005 Act) in whose area are situated the premises in respect of which the club or institute was registered under Part 2 of the 1968 Act.

Conversion of club registrations under Part 2 of the Gaming Act 1968: provision of information by the 1968 Act registration authority

79.—(1) In England and Wales, the designated officer for the authority which registered the club or institute must on the relevant date, or as soon as practicable after that date, provide the relevant licensing authority with the information specified in sub-paragraph (3).

(2) In Scotland, the sheriff clerk to the sheriff who registered the club or institute must on the relevant date, or as soon as practicable after that date, provide the relevant licensing authority with the information specified in sub-paragraph (3).

(3) The information to be provided is—

- (a) the name of the club or institute,
- (b) a description of the purposes for which the club is established or, in the case of a miners' welfare institute, a statement that it is such;
- (c) a description of the premises to which the registration relates,
- (d) the address of those premises,
- (e) the date of registration or, where the registration has been renewed, the date on which it was last renewed,
- (f) in a case falling within paragraph 78(1) (other than one to which sub-paragraph (6) below applies), the date on which the registration, as it had effect immediately before 1st September 2007, was due to expire, and
- (g) the name and address of the chairman or secretary of the club or institute as recorded in the register under Part 2 of the 1968 Act.

(4) This paragraph is subject to paragraph 81.

(1) See sections 266 and 268 of the 2005 Act for the definitions of "members' club" and "miners' welfare institute".

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- (5) Subject to sub-paragraph (6), a reference in this paragraph to the relevant date is to—
- (a) 1st September 2007, or
 - (b) in a case falling within paragraph 78(2), the date on which the club or institute is registered.

(6) Where a club or institute's registration has effect immediately before 1st September 2007 by virtue of paragraph 22 of Schedule 3, or paragraph 20 of Schedule 4, to the 1968 Act (both of which provide for registrations under Part 2 of that Act to be extended where an application for renewal of the registration has not been determined), the relevant date is the date on which the application for renewal of the registration is granted.

Duty of licensing authority to convert a registration under Part 2 of the Gaming Act 1968 into a club gaming permit

80.—(1) Subject to paragraphs 81 to 85, where—

- (a) a members' club or miners' welfare institute applies to the relevant licensing authority for the grant of a club gaming permit in respect of the same or substantially the same premises as those to which the registration under Part 2 of the 1968 Act relates;
- (b) the application complies with sub-paragraphs (b) and (e) of paragraph 2 and (where applicable) paragraph 3 of Schedule 12 to the 2005 Act; and
- (c) the application is made not less than two months before the relevant date,

the licensing authority must grant that application.

(2) Paragraphs 4, 5(b), 6, 7 and 10 of Schedule 12 to the 2005 Act are not to apply to an application falling within sub-paragraph (1), and paragraph 8 is to apply with the omission of any reference to objections.

(3) Subject to sub-paragraphs (4) and (5), in sub-paragraph (1)(c) "the relevant date" means the date on which the club or institute's registration, as it had effect immediately before 1st September 2007, was due to expire in accordance with (as the case may be) paragraph 19 of Schedule 3 or paragraph 17 of Schedule 4 to the 1968 Act (both of which provide for the duration of registrations under Part 2 of that Act).

(4) Where the club or institute's registration has effect immediately before 1st September 2007 by virtue of paragraph 22 of Schedule 3, or paragraph 20 of Schedule 4, to the 1968 Act, the relevant date is the last day of the period of 10 years beginning on the date on which the registration is renewed.

(5) Where the club or institute is registered on or after 1st September 2007, the relevant date is the last day of the period of one year beginning on the date on which it is registered.

Exclusion of cases where an application for the renewal of the registration under Part 2 is rejected on or after 1st September 2007

81.—(1) This paragraph applies where—

- (a) a club or institute's registration under Part 2 of the 1968 Act has effect immediately before 1st September 2007 by virtue of paragraph 22 of Schedule 3, or paragraph 20 of Schedule 4, to the 1968 Act; and
- (b) the application for renewal of the registration is withdrawn or rejected on or after that date.

(2) Paragraphs 79 and 80(1) are not to apply in a case to which this paragraph applies.

(3) Paragraph 84(1) is to cease to apply to the club or institute on the date on which the application for renewal of the registration is withdrawn or rejected.

Conversion of club registrations under Part 2 of the Gaming Act 1968: applications made before 1st September 2007

82.—(1) This paragraph applies where—

- (a) a members' club or miners' welfare institute applies for the grant of a club gaming permit before 1st September 2007;
- (b) when the application is made, the club or institute is registered under Part 2 of the 1968 Act in respect of the same, or substantially the same, premises as those to which the application relates;
- (c) the registration under Part 2 of the 1968 Act is due to expire in accordance with (as the case may be) paragraph 19 of Schedule 3 or paragraph 17 of Schedule 4 to the 1968 Act⁽²⁾ on or after 1st September 2007;
- (d) the application complies with paragraphs (b) and (e) of paragraph 2 and, where applicable, paragraph 3 of Schedule 12 to the 2005 Act; and
- (e) the application is made not less than two months before the relevant date (as that expression is defined in paragraph 80(3) to (5)).

(2) The licensing authority may not determine the application before 1st September 2007.

Failure to make the application for a club gaming permit in the appropriate form or manner

83.—(1) This paragraph applies to any application for a club gaming permit which meets the conditions in paragraphs (a) to (c) of paragraph 80(1), but does not comply with a requirement imposed under sub-paragraph (c) or (d) of paragraph 2 of Schedule 12 to the 2005 Act.

(2) Where the relevant licensing authority give notice in writing to the members' club or miners' welfare institute making the application requesting it to do anything which is necessary for the purposes of complying with any such requirement, the authority are to cease to be under a duty by virtue of paragraph 80(1) to grant the application until such time as the club or institute complies with the request.

(3) 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) Paragraph 84(1) is to cease to apply if the club or institute fails to comply with a request made under sub-paragraph (2) within the period specified in accordance with sub-paragraph (3).

Conversion of club registrations under Part 2 of the Gaming Act 1968: transitional provisions

84.—(1) At any time on or after 1 September 2007 until the date on which the club gaming permit is granted in accordance with paragraph 80, a members' club or miners' welfare institute is to be treated for the purposes of the 2005 Act as if it had been granted such a permit in relation to the premises in respect of which the registration under Part 2 of the 1968 Act had effect.

(2) In a case falling within paragraph 78(2), sub-paragraph (1) is not to apply until the date on which the club or institute is registered under Part 2 of the 1968 Act.

(3) Where the club or institute fails to apply for a club gaming permit not less than two months before the relevant date (within the meaning of paragraph 80(3) to (5)), sub-paragraph (1) is to have effect as if it provided for the club or institute to be treated as holding such a permit until the relevant date.

(2) Paragraph 19 of Schedule 3 was amended by the Gaming (Amendment) Act 1982 (c. 22), section 1 and Schedule 1, paragraph 12 and paragraph 17 of Schedule 2 was amended by the Gaming (Amendment) Act 1982, section 1 and Schedule 1, paragraph 14.

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(4) Paragraph 80 and sub-paragraph (1) of this paragraph are to be subject to the following provisions of this paragraph.

(5) Paragraph 80 and sub-paragraph (1) of this paragraph are to cease to apply if the members' club or miners' welfare institute ceases to be such a club or institute within the meaning of sections 266 and 268 of the 2005 Act.

(6) Paragraph 80 and sub-paragraph (1) of this paragraph are to cease to apply to a members' club or miners' welfare institute if notice to that effect is given by the club or institute to the relevant licensing authority.

(7) The relevant licensing authority shall as soon as reasonably practicable inform the persons specified in sub-paragraph (8) if the authority—

- (a) believe that sub-paragraph (5) applies, or
- (b) receive notice given under sub-paragraph (6).

(8) The persons mentioned in sub-paragraph (7) are—

- (a) the Gambling Commission, and
- (b) the chief officer of police for any area in which the premises referred to in sub-paragraph (1) are situated.

(9) The relevant licensing authority may give notice in writing to a members' club or miners' welfare institute that paragraph 80 and sub-paragraph (1) of this paragraph are to be disapplied in relation to the club or institute.

(10) The relevant licensing authority may only give notice in accordance with sub-paragraph (9) if the authority think—

- (a) that the premises on which the club or institute conducts its activities are used wholly or mainly by children, by young persons or by both, or
- (b) that an offence, or a breach of a condition of section 271 of the 2005 Act (which makes provision with respect to club gaming permits), has been committed in the course of gaming activities carried on by the club or institute.

(11) Sub-paragraphs (2) to (4) of paragraph 21 and paragraph 25 of Schedule 12 to the 2005 Act (which provide respectively for cancellation of club gaming permits, and appeals) are to apply to the giving of a notice under sub-paragraph (9) of this paragraph as they apply to the cancellation of a club gaming permit under paragraph 21(1) of that Schedule.

(12) Paragraph 23 of Schedule 12 to the 2005 Act (which provides for forfeiture of club gaming permits on conviction of offences under the 2005 Act) is to apply as if—

- (a) the reference in that paragraph to the holder of a club gaming permit, or the officer of the holder of such a permit holder, included a reference to a members' club or miners' welfare institute to which paragraph 80 and sub-paragraph (1) of this paragraph apply or the officer of such a club or institute; and
- (b) the reference to the court having power to order forfeiture of the permit included a reference to the court having power to order that paragraph 80 and sub-paragraph (1) of this paragraph should be disapplied in relation to the club or miners' welfare institute concerned.

(13) Paragraph 28 of Schedule 12 to the 2005 Act (which makes provision about the delegation of licensing authority functions) is to apply to the exercise of functions by the relevant licensing authority under this paragraph and under paragraph 80 as it applies to the exercise of functions of a licensing authority under that Schedule.

(14) Despite section 274(2) of the 2005 Act (which disapplies Schedule 12 in relation to specified clubs etc. in Scotland), the provisions of that Schedule referred to in sub-paragraphs (11) to (13) are

also to apply to a members' club or miners' welfare institute in Scotland in the same way as they apply to a club or institute in England and Wales.

Special provisions applying to clubs etc. in Scotland

85.—(1) This paragraph modifies paragraphs 80 and 82 to 84 in their application to members' clubs or miners' welfare institutes in respect of which a certificate of registration under section 105 of the Licensing (Scotland) Act 1976 has effect (referred to in this paragraph as a "certificate of registration").

(2) The following are not to apply where an application for a club gaming permit is made in relation to a members' club or miners' welfare institute in respect of which a certificate of registration has effect—

- (a) the condition in paragraph (b) of paragraph 80(1),
- (b) paragraph 80(2),
- (c) the condition in paragraph (d) of paragraph 82, and
- (d) paragraph 83.

(3) The following provisions of this paragraph are only to have effect if on 1st June 2007 regulations under section 285(1)(a) of the 2005 Act are not in force setting out the provisions which are to have effect in place of Schedule 12 to that Act in relation to an application for a club gaming permit where the applicant is the holder of a certificate of registration.

(4) Paragraph (c) of paragraph 80(1) is to have effect as if it required such an application to be made on or before the date which is the later of—

- (a) one month after the date on which the provisions referred to in sub-paragraph (3) come into force, or
- (b) two months before the relevant date (within the meaning of paragraph 80(3)).

(5) Paragraph 84(3) is not to apply in any case where the effect of paragraph 80(1) (as modified by sub-paragraph (4)) is to require the application to be made on or before the date which is one month after the date on which the provisions referred to in sub-paragraph (3) come into force.

(6) In such a case sub-paragraph (7) is to have effect in place of paragraph 84(3).

(7) Where the holder of the certificate of registration fails to apply for a club gaming permit on or before the date referred to in sub-paragraph (4)(a), paragraph 84(1) is to have effect as if it provided for the club or institute to be treated as holding such a permit until that date.

Conversion of a club registration under Part 3 of the Gaming Act 1968 into a club machine permit

86.—(1) Paragraphs 87 to 89, 91 and 92 apply to a members' club, commercial club or miners' welfare institute where—

- (a) the club or institute is registered under Part 3 of the 1976 Act, and
- (b) the registration has effect immediately before 1st September 2007.

(2) Paragraphs 87 to 89, 91 and 92 also apply to a members' club, commercial club or miners' welfare institute which is registered under Part 3 of the 1968 Act on or after 1st September 2007.

(3) In paragraphs 87, 88, 91 and 92, any reference to the relevant licensing authority is to the licensing authority (within the meaning of the 2005 Act) in whose area are situated the premises in respect of which the club or institute was registered under Part 3 of the Act.

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Conversion of club registrations under Part 3 of the Gaming Act 1968: provision of information by the 1968 Act licensing authority

87.—(1) In England and Wales the designated officer for the authority which registered the club or institute must on the relevant date, or as soon as practicable after that date, provide the relevant licensing authority with the information specified in sub-paragraph (3).

(2) In Scotland, the sheriff clerk to the sheriff who registered the club or institute must on the relevant date, or as soon as practicable after that date, provide the relevant licensing authority with the information specified in sub-paragraph (3).

(3) The information to be provided is—

- (a) the name of the club or institute,
- (b) a description of the purposes for which the club is established or, in the case of a miners' welfare institute, a statement that it is such;
- (c) a description of the premises to which the registration relates,
- (d) the address of those premises,
- (e) the date of registration or, where the registration has been renewed, the date on which it was last renewed,
- (f) in a case falling within paragraph 86(1) (other than one to which sub-paragraph (6) below applies), the date on which the registration, as it had immediately before 1st September 2007, was due to expire, and
- (g) the name and address of the chairman or secretary of the club or institute as recorded in the register under Part 3 of the 1968 Act.

(4) This paragraph is subject to paragraph 89.

(5) Subject to sub-paragraph (6), a reference in this paragraph to the relevant date is to—

- (a) 1st September 2007, or
- (b) in a case falling within paragraph 86(2), the date on which the club or institute is registered.

(6) Where a club or institute's registration has effect immediately before 1st September 2007 by virtue of paragraph 23 of Schedule 7 to the 1968 Act (which provides for registrations under Part 3 of that Act to be extended where an application for renewal of the registration has not been determined), including as that paragraph has effect in relation to Scotland by virtue of paragraph 3 of Schedule 8 to that Act, the relevant date is the date on which the application for renewal of the registration is granted.

Duty of licensing authority to convert a registration under Part 3 of the Gaming Act 1968 into a club machine permit

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

- (a) a members' club, commercial club or miners' welfare institute applies to the relevant licensing authority for the grant of a club machine permit in respect of the same or substantially the same premises as those to which the registration under Part 3 of the 1968 Act relates;
- (b) the application complies with sub-paragraphs (b) and (e) of paragraph 2 and (where applicable) paragraph 3 of Schedule 12 to the 2005 Act; and
- (c) the application is made not less than two months before the relevant date

the relevant licensing authority must grant that application.

(2) Paragraphs 4, 5(b), 6, 7 and 10 of Schedule 12 to the 2005 Act are not to apply to an application falling within sub-paragraph (1), and paragraph 8 is to apply with the omission of any reference to objections.

(3) Subject to sub-paragraphs (4) and (5), in sub-paragraph (1)(c) “the relevant date” means the date on which the club or institute’s registration, as it had immediately before 1st September 2007, was due to expire in accordance with paragraph 22 of Schedule 7 to the 1968 Act (which provides for the duration of registrations under Part 2 of that Act) including as that paragraph has effect in relation to Scotland by virtue of paragraph 3 of Schedule 8 to that Act.

(4) Where the club or institute’s registration has effect immediately before 1st September 2007 by virtue of paragraph 23 of Schedule 7 to the 1968 Act (including as that paragraph has effect in relation to Scotland by virtue of paragraph 3 of Schedule 8 to that Act), the relevant date is the last day of the period of 5 years beginning on the date on which the registration is renewed.

(5) Where the club or institute is registered on or after 1st September 2007, the relevant date is the last day of the period of 5 years beginning on the date on which it is registered.

Exclusion of cases where an application for the renewal of the registration under Part 2 is rejected on or after 1st September 2007

89.—(1) This paragraph applies where—

- (a) a club or institute’s registration under Part 3 of the 1968 Act has effect immediately before 1st September 2007 by virtue of paragraph 23 of Schedule 7 to the 1968 Act (including as that paragraph has effect in relation to Scotland by virtue of paragraph 3 of Schedule 8 to that Act); and
- (b) the application for renewal of the registration is withdrawn or rejected on or after that date.

(2) Paragraphs 87 and 88(1) are not to apply in a case to which this paragraph applies.

(3) Paragraph 92(1) is to cease to apply to the club or institute on the date on which the application for renewal of the registration is withdrawn or rejected.

Conversion of club registrations under Part 2 of the 1968 Act: applications made before 1st September 2007

90.—(1) This paragraph applies where—

- (a) a members’ club, commercial club or miners’ welfare institute applies for the grant of a club machine permit before 1st September 2007;
- (b) when the application is made, the club or institute is registered under Part 3 of the 1968 Act in respect of the same, or substantially the same, premises as those to which the application relates;
- (c) the registration under Part 3 of the 1968 Act is due to expire in accordance with paragraph 22 of Schedule 7 to the 1968 Act (including as that paragraph has effect in relation to Scotland by virtue of paragraph 3 of Schedule 8 to that Act) on a date on or after 1st September 2007;
- (d) the application complies with sub-paragraphs (b) and (e) of paragraph 2 and, where applicable, paragraph 3 of Schedule 12 to the 2005 Act; and
- (e) the application is made not less than two months before the relevant date (as that expression is defined in paragraph 88(3) to (5)).

(2) The licensing authority may not determine the application before 1st September 2007.

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Failure to make the application for a club machine permit in the appropriate form or manner

91.—(1) This paragraph applies to any application for a club machine permit which meets the conditions in paragraphs (a) to (c) of paragraph 88(1), but does not comply with a requirement imposed under sub-paragraph (c) or (d) of paragraph 2 of Schedule 12 to the 2005 Act.

(2) Where the relevant licensing authority give notice in writing to the club or miners' welfare institute making the application requesting it to do anything which is necessary for the purposes of complying with any such requirement, the authority are to cease to be under a duty by virtue of paragraph 88(1) to grant the application until such time as the club or institute complies with the request.

(3) 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) Paragraph 92(1) is to cease to apply if the club or institute fails to comply with a request made under sub-paragraph (2) within the period specified in accordance with sub-paragraph (3).

Conversion of club registrations under Part 3 of the 1968 Act: transitional provisions

92.—(1) At any time on or after 1st September 2007 until the date on which the club machine permit is granted in accordance with paragraph 88, a club or miners' welfare institute is to be treated for the purposes of the Act as if it had been granted such a permit in relation to the premises in respect of which the registration under Part 3 of the 1968 Act had effect.

(2) In a case falling within paragraph 86(2), sub-paragraph (1) is not to apply until the date on which the club or institute is registered under Part 3 of the 1968 Act.

(3) Where the club or institute fails to apply for a club machine permit not less than 2 months before the relevant date (within the meaning of paragraph 88(3) to (5)), sub-paragraph (1) is to have effect as if it provided for the club or institute to be treated as holding such a permit until the relevant date.

(4) Paragraph 88 and sub-paragraph (1) of this paragraph are to be subject to the following provisions of this paragraph.

(5) Paragraph 88 and sub-paragraph (1) of this paragraph are to cease to apply if the members' club, commercial club or miners' welfare institute ceases to be such a club or institute within the meaning of sections 266 to 268 of the 2005 Act.

(6) Paragraph 88 and sub-paragraph (1) of this paragraph are to cease to apply to a club or miners' welfare institute if notice to that effect is given by the club or institute to the relevant licensing authority.

(7) The relevant licensing authority shall as soon as reasonably practicable inform the persons specified in sub-paragraph (8) if the authority—

- (a) believe that sub-paragraph (5) applies, or
- (b) receive notice given under sub-paragraph (6).

(8) The persons mentioned in sub-paragraph (7) are—

- (a) the Gambling Commission, and
- (b) the chief officer of police for any area in which the premises referred to in sub-paragraph (1) are situated.

(9) The relevant licensing authority may give notice in writing to a club or miners' welfare institute that paragraph 88 and sub-paragraph (1) of this paragraph are to be disapplied in relation to the club or institute.

(10) The relevant licensing authority may only give notice in accordance with sub-paragraph (9) if the authority think—

- (a) that the premises on which the club or institute conducts its activities are used wholly or mainly by children, by young persons or by both, or
- (b) that an offence, or a breach of a condition of section 273 of the 2005 Act, has been committed in the course of gaming activities carried on by the club or institute.

(11) Sub-paragraphs (2) to (4) of paragraph 21, and paragraph 25, of Schedule 12 to the 2005 Act (which provide respectively for cancellation of club machine permits, and appeals) are to apply to the giving of a notice under sub-paragraph (9) of this paragraph as they apply to the cancellation of a club machine permit under paragraph 21(1) of that Schedule.

(12) Paragraph 23 of Schedule 12 to the 2005 Act (which provides for forfeiture of club machine permits on conviction of offences under the 2005 Act) is to apply as if—

- (a) the reference in that paragraph to the holder of a club machine permit, or the officer of the holder of such a permit holder, included a reference to a club or miners' welfare institute to which paragraph 88 and sub-paragraph (1) of this paragraph apply, or the officer of such a club or institute; and
- (b) the reference to the court having power to order forfeiture of the permit included a reference to the court having power to order that paragraph 88 and sub-paragraph (1) of this paragraph should be disapplied in relation to the club or miners' welfare institute concerned.

(13) Paragraph 28 of Schedule 12 to the 2005 Act (which makes provision about the delegation of licensing authority functions) is to apply to the exercise of functions by the relevant licensing authority under this paragraph and paragraph 88 as it applies to the exercise of functions of a licensing authority under that Schedule.

(14) Despite section 274(2) of the 2005 Act (which disapplies Schedule 12 in relation to specified clubs etc. in Scotland), the provisions of that Schedule referred to in sub-paragraphs (10) to (12) are also to apply to any club or miners' welfare institute in Scotland in the same way as they apply to a club or institute in England and Wales.

Special provisions applying to clubs etc. in Scotland

93.—(1) This paragraph modifies paragraphs 88, 90, 91 and 92 in their application to members' clubs, commercial clubs or miners' welfare institutes in respect of which a certificate of registration under section 105 of the Licensing (Scotland) Act 1976 has effect (referred to in this paragraph as a "certificate of registration").

(2) The following are not to apply where an application for a club machine permit is made in relation to a club or miners' welfare institute in respect of which a certificate of registration has effect—

- (a) the condition in paragraph (b) of paragraph 88(1),
- (b) paragraph 80(2),
- (c) the condition in paragraph (d) of paragraph 90, and
- (d) paragraph 91.

(3) The following provisions of this paragraph are only to apply if on 1st June 2007 regulations under section 285(1)(a) of the 2005 Act are not in force setting out the provisions which are to have effect in place of Schedule 12 to that Act in relation to an application for a club machine permit where the applicant is the holder of a certificate of registration.

(4) Paragraph (c) of paragraph 88(1) is to have effect as if it required such an application to be made on or before the date which is the later of—

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- (a) one month after the date on which the provisions referred to in sub-paragraph (3) come into force, or
 - (b) two months before the relevant date (within the meaning of paragraph 88(3)).
- (5) Paragraph 92(3) is not to apply in any case where the effect of paragraph 88(1) (as modified by sub-paragraph (4)) is to require the application to be made or before the date which is one month after the date on which the provisions referred to in sub-paragraph (3) come into force.
- (6) In such a case sub-paragraph (7) is to have effect in place of paragraph 92(3).
- (7) Where the holder of the certificate of registration fails to apply for a club machine permit on or before the date referred to in sub-paragraph (4)(a), paragraph 92(1) is to have effect as if it provided for the club or institute to be treated as holding such a permit until that date.