



Gambling Act 2005

2005 CHAPTER 19

VALID FROM 01/12/2007

PART 9

TEMPORARY USE OF PREMISES

Temporary use notice

214 Exception to offence of using premises for gambling

- (1) A person who uses premises to carry on an activity listed in section 37(1), or who causes or permits premises to be used to carry on an activity to which that section applies, does not commit an offence under that section if—
- (a) a temporary use notice under this Part has effect in respect of the premises, and
 - (b) the activity is carried on in accordance with the terms of the notice.

215 Nature of notice

- (1) A temporary use notice is a notice given in accordance with the provisions of this Part—
- (a) by the holder of an operating licence, and
 - (b) stating his intention to carry on one or more specified prescribed activities.
- (2) The Secretary of State may by regulations—
- (a) prescribe activities which may be specified in a notice under subsection (1)(b);
 - (b) prescribe combinations of activity that may not be specified in a notice under subsection (1)(b);

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(c) prescribe activities which may be specified under subsection (1)(b) only if no other prescribed activity is specified in the notice.

(3) A temporary use notice given by a person may specify an activity under subsection (1)(b) only if the person's operating licence authorises him to carry on the activity.

216 Form of notice

(1) A temporary use notice must—

- (a) be in the prescribed form,
- (b) specify the activity to be carried on in reliance on the notice,
- (c) specify the premises on which the activity is to be carried on,
- (d) specify the period of time during which the notice is to have effect,
- (e) specify the times of day during that period at which the activity is to be carried on,
- (f) specify any periods during the previous 12 months during which a temporary use notice has had effect in respect of the premises or any part of the premises,
- (g) specify the date on which the notice is given, and
- (h) contain any other prescribed information.

(2) In this section “prescribed” means prescribed by regulations made by the Secretary of State.

(3) In subsection (1)(f) “the previous 12 months” means the period of 12 months ending with the last day of the period specified under subsection (1)(d).

217 Effect of notice

A temporary use notice shall, subject to the provisions of this Part and provided that the requirements of this Part are complied with, have effect during the period specified in the notice in accordance with section 216(1)(d).

218 Maximum permitted period

(1) A set of premises may not be the subject of temporary use notification for more than 21 days in a period of 12 months.

(2) A set of premises may be the subject of more than one temporary use notice in a period of 12 months (provided that the aggregate of the periods for which the notices have effect does not exceed 21 days).

(3) If a temporary use notice is given to a licensing authority and subsection (1) would be contravened if the notice had effect for any part of the period specified in accordance with section 216(1)(d), the licensing authority shall give a counter-notice providing for the temporary use notice not to have effect.

(4) Subsections (5) and (6) apply where a temporary use notice is given to a licensing authority and—

- (a) subsection (1) would be contravened if the notice had effect for the whole of the period specified in accordance with section 216(1)(d) (“the specified period”), but

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- (b) the notice could have effect for some part of the specified period without resulting in contravention of subsection (1).
- (5) The licensing authority shall give a counter-notice providing that the temporary use notice—
 - (a) shall not have effect during such part of the specified period as the licensing authority may specify in the counter-notice (“the excluded period”), and
 - (b) shall be treated for the purposes of this Part as if it related only to the non-excluded period.
- (6) Where there is a choice as to which part of the specified period to exclude under subsection (5), the licensing authority shall consult the person who gave the temporary use notice before giving a counter-notice by virtue of that subsection.
- (7) A counter-notice under this section shall have effect; and subsections (4) and (6) of section 224 shall apply in relation to a counter-notice given under this section as they apply in relation to a counter-notice given under that section.
- (8) For the purposes of this section a set of premises is the subject of temporary use notification (or of a notice) if any part of the premises is the subject of temporary use notification (or of a notice).

Procedure

219 Giving notice

- (1) A temporary use notice must be given to the licensing authority for the area in which the premises specified under section 216(1)(c) are situated.
- (2) A temporary use notice must be given before the period of three months ending with the day before the period specified under section 216(1)(d).
- (3) A temporary use notice given under subsection (1) must be accompanied by—
 - (a) a copy of the notice, and
 - (b) such fee as may be prescribed by regulations made—
 - (i) in relation to premises in England and Wales, by the Secretary of State, and
 - (ii) in relation to premises in Scotland, by the Scottish Ministers.
- (4) A person who gives a temporary use notice must give a copy of it to—
 - (a) the Commission,
 - (b) either—
 - (i) in England and Wales, the chief officer of police for any area in which the premises specified in the notice are wholly or partly situated, or
 - (ii) in Scotland, the chief constable of the police force maintained for a police area in which the premises are wholly or partly situated, and
 - (c) Her Majesty's Commissioners of Customs and Excise.
- (5) A person who gives a temporary use notice must ensure that it, and any copy required by this section to be given, are received within the period of 7 days beginning with the date specified under section 216(1)(g).

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- (6) In the case of premises situated partly in the area of one licensing authority and partly in the area of another, the person giving the notice—
 - (a) may give it to either authority, and
 - (b) shall give a copy of the notice to the other authority.
- (7) In this Part—
 - (a) “chief officer of police” has the meaning given by section 101(1) of the Police Act 1996 (c. 16), and
 - (b) a reference to a chief officer's area is a reference to the area in respect of which he has responsibility under that Act.
- (8) Section 212 shall have effect in relation to fees under this section as it has effect in relation to fees under Part 8.

220 Acknowledgment of notice

Where a licensing authority receive a temporary use notice in accordance with section 219(1) they shall as soon as is reasonably practicable send a written acknowledgment of the notice to the person who gave it.

221 Objections

- (1) This section applies where a person receives a temporary use notice, or a copy of a temporary use notice, in accordance with section 219.
- (2) If the person thinks that having regard to the licensing objectives the temporary premises notice should not have effect, or should have effect only with modification, he may give a notice of objection to the person who gave the temporary use notice.
- (3) A person who gives a notice of objection under subsection (2) must give a copy of the notice to the licensing authority to which the temporary use notice was given (unless it is that licensing authority which give the notice of objection).
- (4) A notice of objection and any copy required by subsection (3) must be given within the period of 14 days beginning with the date on which the temporary use notice is given as specified under section 216(1)(g).
- (5) A notice of objection must state—
 - (a) that the person giving the notice objects to the temporary use notice, and
 - (b) the person's reasons.
- (6) If the person who gives a notice of objection later withdraws it by notice in writing to the persons mentioned in subsections (2) and (3), the notice of objection shall be disregarded.

222 Hearing of objections

- (1) This section applies where—
 - (a) a temporary use notice is given to a licensing authority in accordance with section 219, and
 - (b) a notice of objection is given in accordance with section 221.

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- (2) The licensing authority shall hold a hearing at which any of the following may make representations about the notice of objection—
- (a) the person who gave the temporary use notice,
 - (b) the person who gave the notice of objection, and
 - (c) any other person who was entitled to receive a copy of the temporary use notice in accordance with section 219.
- (3) But the licensing authority need not arrange a hearing if the authority and each person who would be entitled to make representations agree in writing that a hearing is unnecessary.

223 Modification by agreement

- (1) This section applies where—
- (a) a person has given a temporary use notice to a licensing authority in accordance with section 219,
 - (b) a notice of objection has been given by a person (“the objector”) in accordance with section 221, and
 - (c) a hearing in accordance with section 222(2) has neither—
 - (i) taken place, nor
 - (ii) been dispensed with in accordance with section 222(3).
- (2) The objector may by notice in writing to the person who gave the temporary use notice propose a modification of that notice.
- (3) If the person who gave the temporary use notice accepts the modification—
- (a) he shall give a new notice, incorporating the modification, in accordance with section 219, and
 - (b) the objection shall be treated as withdrawn (but without prejudice to the right of any person other than the objector to give a notice of objection in relation to the new notice).
- (4) The following provisions of section 219 shall not apply to a temporary use notice given under subsection (3)(a) above—
- (a) subsection (2), and
 - (b) subsection (3)(b).

224 Counter-notice

- (1) This section applies where—
- (a) a person has given a temporary use notice to a licensing authority in accordance with section 219,
 - (b) a notice of objection has been given in accordance with section 221, and
 - (c) a hearing—
 - (i) has taken place in accordance with section 222(2), or
 - (ii) has been dispensed with in accordance with section 222(3).
- (2) If the licensing authority think that the temporary use notice should not have effect or should have effect only with modification, the authority may give a counter-notice under this subsection to the person who gave the temporary use notice.

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- (3) A counter-notice may provide for the temporary use notice—
 - (a) not to have effect;
 - (b) to have effect only in respect of a specified activity;
 - (c) to have effect only in respect of activity carried on during a specified period of time or at specified times of day;
 - (d) to have effect subject to compliance with a specified condition;and provision made under this subsection shall have effect.
- (4) A counter-notice must—
 - (a) be in the prescribed form,
 - (b) contain the prescribed information, and
 - (c) be given as soon as is reasonably practicable.
- (5) A counter-notice must state the licensing authority's reasons for giving it.
- (6) Where a licensing authority give a counter-notice they shall as soon as is reasonably practicable give a copy to any person who was entitled to receive a copy of the temporary use notice.
- (7) Section 153(1) shall apply to the exercise of a licensing authority's functions under this section as it applies to the exercise of a licensing authority's functions under Part 8.
- (8) In this section “prescribed” means prescribed by regulations made by the Secretary of State.

225 Dismissal of objection

- (1) This section applies where—
 - (a) a person has given a temporary use notice to a licensing authority in accordance with section 219,
 - (b) a notice of objection has been given in accordance with section 221, and
 - (c) the licensing authority has determined not to give a counter-notice.
- (2) The licensing authority shall as soon as is reasonably practicable give notice of their determination to—
 - (a) the person who gave the temporary use notice, and
 - (b) each person who received a copy of the temporary use notice in accordance with section 219.

226 Appeal

- (1) This section applies where a licensing authority—
 - (a) give a counter-notice under section 224, or
 - (b) give a notice under section 225.
- (2) Any of the following may appeal—
 - (a) the person who gave the temporary use notice, and
 - (b) a person who was entitled to receive a copy of the temporary use notice under section 219.
- (3) An appeal under this section must be instituted—

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- (a) in the magistrates' court for a local justice area in which the premises to which the temporary use notice relates are wholly or partly situated,
 - (b) by notice of appeal given to the designated officer, and
 - (c) within the period of 14 days beginning with the day on which the appellant receives notice of the action against which the appeal is brought.
- (4) A person who was entitled to receive a copy of the temporary use notice under section 219 must determine whether to appeal, and institute any appeal, as soon as is reasonably practicable.
- (5) Where an appeal is brought against the giving of a notice under section 225 the person who gave the temporary use notice shall be a respondent in addition to the licensing authority.
- (6) On an appeal under this section the magistrates' court may—
- (a) dismiss the appeal;
 - (b) direct the licensing authority to take action of a specified kind;
 - (c) remit the case to the licensing authority to decide in accordance with a direction of the court;
 - (d) make an order about costs.
- (7) Subsection (2) applies to a decision of a licensing authority following remittal under subsection (6)(c) above.
- (8) A party to an appeal under this section may bring a further appeal to the High Court on a point of law.
- (9) In relation to premises in Scotland—
- (a) subsection (3)(a) shall have effect as if it referred to a sheriff within whose sheriffdom the premises are wholly or partly situated,
 - (b) subsection (3)(b) shall not have effect,
 - (c) the reference in subsection (6) to the magistrates' court shall have effect as a reference to the sheriff,
 - (d) the reference in subsection (6) to costs shall have effect as a reference to expenses, and
 - (e) the reference in subsection (8) to the High Court shall have effect as a reference to the Court of Session.

227 Endorsement of notice

- (1) This section applies where a temporary use notice has been given to a licensing authority under section 219.
- (2) If no notice of objection is pending in relation to the temporary use notice when the 14 day period specified in section 221(4) expires, the licensing authority shall—
- (a) endorse the copy submitted under section 219(3)(a) in such manner as may be prescribed by the Secretary of State by regulations, and
 - (b) return the endorsed copy, as soon as is reasonably practicable, to the person giving the notice.
- (3) If a notice of objection is pending in relation to a temporary use notice when the 14 day period specified in section 221(4) expires, then as soon as is reasonably

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practicable after the completion of proceedings on the temporary use notice the licensing authority shall, unless they give a counter-notice under section 224(3)(a)—

- (a) endorse the copy submitted under section 219(3)(a) in such manner as may be prescribed by the Secretary of State by regulations, and
 - (b) return the endorsed copy, as soon as is reasonably practicable, to the person giving the temporary use notice.
- (4) For the purposes of this section a notice of objection is pending if it has been given in accordance with section 221 and—
- (a) it has not been withdrawn, and
 - (b) it is not treated as withdrawn in accordance with section 223(3)(b).
- (5) For the purposes of this section proceedings on a temporary use notice are completed—
- (a) if any notice of objection given in relation to the temporary use notice has been withdrawn, or
 - (b) if the licensing authority has given a counter-notice under section 224 or a notice under section 225.
- (6) A licensing authority shall make arrangements whereby if an endorsed copy of a temporary use notice is lost, stolen or damaged the person who gave the notice can obtain a new endorsed copy; and—
- (a) the arrangements may include the charging of such fee as the Secretary of State may prescribe by regulations, and
 - (b) section 212 shall have effect in relation to fees under paragraph (a) above as it has effect in relation to fees under Part 8.

228 Consideration by licensing authority: timing

- (1) Where a licensing authority are given a temporary use notice in accordance with section 219 the authority shall complete proceedings on the notice before the end of the period of six weeks beginning with the date on which they receive the notice.
- (2) In subsection (1) the reference to proceedings on a temporary use notice is a reference to—
- (a) considering whether to give a notice of objection under section 221,
 - (b) holding a hearing in relation to any notice of objection given under section 221 (whether or not by the licensing authority) or agreeing to dispense with a hearing in accordance with section 222(3), and
 - (c) giving a counter-notice under section 224 or a notice under section 225.

Miscellaneous

229 Availability of notice

- (1) A person who gives a temporary use notice in respect of premises shall—
- (a) arrange for a copy of the notice to be displayed prominently on the premises at any time when an activity is being carried on in reliance on the notice, and
 - (b) arrange for the notice endorsed by the licensing authority in accordance with section 227 to be produced on request to—
 - (i) a constable,

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- (ii) an officer of customs and excise,
- (iii) an enforcement officer, or
- (iv) an authorised local authority officer.

- (2) A person commits an offence if he fails without reasonable excuse to comply with subsection (1).
- (3) A person guilty of an offence under subsection (2) shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

230 Withdrawal of notice

If a person who gives a temporary use notice to a licensing authority in accordance with section 219 notifies the licensing authority that the notice is withdrawn—

- (a) the notice shall have no effect (or, if it has started to have effect, shall cease to have effect), and
- (b) no further proceedings shall take place in respect of the notice (except in respect of a matter arising during or in relation to a time at which the notice had effect).

231 Vehicles and vessels

- (1) A temporary use notice—
 - (a) may not be given in respect of a vehicle (or part of a vehicle),
 - (b) may be given in respect of all or part of a passenger vessel,
 - (c) may be given in respect of all or part of a vessel (within the meaning of section 353(1)) situated at a fixed place in or on water, and
 - (d) may not be given in respect of all or part of a vessel to which neither of paragraphs (b) and (c) applies.
- (2) In relation to a vessel, a reference in this Part to a place in which premises are wholly or partly situated shall be construed—
 - (a) in the case of a vessel (within the meaning of section 353(1)) situated at a fixed place in or on water, as a reference to that place,
 - (b) in the case of a vessel which is permanently moored at a place, as a reference to that place,
 - (c) in the case of a vessel which is habitually moored at one place more frequently or for longer periods than at any other place, as a reference to that place, and
 - (d) in any other case, as a reference to any place at which a vessel is moored or is likely to be moored, or to the place in the United Kingdom nearest to any place at which a vessel is or is likely to be, while activities are carried on in the vessel in reliance on a temporary use notice.
- (3) In relation to a vessel, the following are responsible authorities for the purposes of this Part (in addition to the persons listed in section 157)—
 - (a) a navigation authority, within the meaning of section 221(1) of the Water Resources Act 1991 (c. 57), which has functions in relation to any place at which a vessel is moored or is likely to be moored, or to the place in the United Kingdom nearest to any place at which a vessel is or is likely to be,

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while activities are carried on in the vessel in reliance on a temporary use notice,

- (b) the Environment Agency,
- (c) the British Waterways Board, and
- (d) the Secretary of State.

232 Delegation of licensing authority functions: England and Wales

- (1) The functions under this Part of a licensing authority in England and Wales are by virtue of this subsection delegated to the licensing committee of the authority established under section 6 of the Licensing Act 2003 (c. 17).
- (2) The following provisions of the Licensing Act 2003 shall apply in relation to a function delegated to a licensing committee under this section as they apply in relation to a function delegated under that Act—
 - (a) section 7(9) (referral back to licensing authority), and
 - (b) section 10 (sub-delegation).
- (3) In the application of section 10(4) of that Act (matters not to be delegated to officer) by virtue of subsection (2) above, for the list of functions there shall be substituted a reference to any function under section 224 of this Act.
- (4) The provisions of section 9 of that Act and regulations under it apply to proceedings of licensing committees and their sub-committees in relation to the exercise of functions under this Part; and for that purpose regulations may, in particular, make provision which applies—
 - (a) only in relation to functions under that Act,
 - (b) only in relation to functions under this Part, or
 - (c) differently in relation to functions under that Act and functions under this Part.

233 Delegation of functions under Part 9: Scotland

- (1) Subject to subsection (2), a licensing authority in Scotland may arrange for the discharge of any of their functions under this Part by a committee of the authority, a member or members of the authority, the clerk of the authority or any person appointed to assist the clerk.
- (2) A licensing authority are not to make any arrangements under subsection (1) for the discharge by the clerk of the authority or any person appointed to assist the clerk of any of the authority's functions under section 224.
- (3) The procedures applicable to the proceedings of licensing boards in the exercise of their functions under the Licensing (Scotland) Act 1976 apply to the proceedings of those boards in the exercise of their functions under this Part; and for that purpose regulations made by the Scottish Ministers may, in particular, make provision which applies—
 - (a) only in relation to functions under that Act,
 - (b) only in relation to functions under this Part,
 - (c) differently in relation to functions under that Act and functions under this Part.

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234 Register

- (1) A licensing authority shall—
 - (a) maintain a register of temporary use notices given to them together with such other information as may be prescribed,
 - (b) make the register and information available for inspection by members of the public at all reasonable times, and
 - (c) make arrangements for the provision of a copy of an entry in the register, or of information, to a member of the public on request.
- (2) A licensing authority may refuse to provide a copy of an entry or of information unless the person seeking it pays a reasonable fee specified by the authority.
- (3) The Secretary of State may make regulations about—
 - (a) the form of the register;
 - (b) the manner in which it is maintained.
- (4) The Secretary of State may make regulations—
 - (a) requiring licensing authorities to give to the Commission specified information about temporary use notices given to them,
 - (b) requiring the Commission to maintain a register of the information provided to it under paragraph (a),
 - (c) requiring the Commission to grant access to the register to members of the public (without charge),
 - (d) requiring the Commission to make copies of entries available on request, and on payment of a reasonable fee, to members of the public, and
 - (e) excusing licensing authorities, wholly or partly, from compliance with subsection (1).

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