

EXPLANATORY MEMORANDUM TO
THE GAMING MACHINES IN ALCOHOL LICENSED PREMISES (NOTIFICATION FEE) (ENGLAND AND WALES) REGULATIONS 2007

2007 No. 1832

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.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Description**

2.1 The Gambling Act 2005 (“the Act”) entitles persons who hold a relevant alcohol licence under the Licensing Act 2003, to make available up to two gaming machines on the premises. To do so, licence-holders must notify their licensing authority of their intention to rely on this entitlement and must pay a fee; these regulations prescribe that fee.

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

3.1 These regulations are the first made under the Gambling Act 2005 (the Act) concerning this provision.

4. **Legislative Background**

4.1 The Act introduces a new system of regulation for gambling in Great Britain, which will replace the system of regulation set out in the Betting, Gaming and Lotteries Act 1963, the Gaming Act 1968 and the Lotteries and Amusements Act 1976.

4.2 The formal implementation date for the Gambling Act 2005 will be 1 September 2007. On this date, the majority of permissions issued under existing legislation will expire and be replaced by the new licences and permits prescribed by the new Act.

4.3 It is an offence under the Act to use premises, or cause or permit premises to be used to make gaming machines available for use (section 37), and to make gaming machines available for use by another (section 242), unless this is done in accordance with a relevant operating licence or permit, or it falls under one of the exceptions provided in the Act.

4.4 One such exception is made by section 282 of the Act, which authorises up to two Category C or D gaming machines on premises with an on-premises alcohol licence. An ‘on-premises alcohol licence’ is defined in section 277 of the Act as a premises licence under Part 3 of the Licensing Act 2003 (c. 17), which authorises the supply of alcohol for consumption on the premises.

4.5 Holders of an on-premises alcohol licence must send written notice to their licensing authority of their intention to make gaming machines available for use in reliance on section 282, and must pay the fee which is prescribed in these Regulations.

4.6 Section 282(3) makes it a condition of the entitlement under section 282 to comply with any relevant provision of a code of practice issued by the Gambling Commission under section 24 of the Act, about the location and operation of a gaming machine.

4.7 These Regulations only apply to England and Wales. In the case of premises in respect of which a relevant Scottish licence (defined in section 277(c) of the Act) has effect, the fee will be prescribed by regulations made by the Scottish Ministers.

5. Territorial Extent and Application

5.1 This instruments applies to England and Wales.

6. European Convention on Human Rights

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

7. Policy background

7.1 The objectives of the Gambling Act 2005 are: to prevent gambling from being a source of crime and disorder; to ensure that it is conducted in a fair and open way; and to protect children and other vulnerable persons from being harmed or exploited by it.

7.2 These regulations, which are made under the Act, concern the fee that holders of an alcohol premises licence will have to pay when they notify their local licensing authority of their intention to take up their automatic entitlement (under section 282 of the Act) to provide up to two category C or D gaming machines on their premises.

Consultation

7.3 These Regulations concern payment of a one-off fee, which has been subject to formal consultation. We have set the figure on the basis of our consultation on Premises Licences and Permits Fees, which we carried out between November 2006 – January 2007, and which was informed by a comprehensive fees costing exercise. Both these exercises sought the views of licensing authorities and the industry, and both were content with our proposal to set this fee at £50.

8. Impact

8.1 We consider that these Regulations will have a minimal impact on the industry.

9. Contact

Julia Frayne
Gaming and Lotteries
Department for Culture Media and Sport
2 – 4 Cockspur Street
London
SW1Y 5DH

Julia.frayne@culture.gsi.gov.uk

Tel: 020 7211 6361

Department for Culture, Media and Sport

Draft Regulatory Impact Assessment

1. Title of proposal

2. The Gaming Machines In Alcohol Licensed Premises (Notification Fee) (England And Wales) Regulations 2007

3. Purpose and intended effect

Objectives

These Regulations make provisions for persons who hold a relevant alcohol licence under the Licensing Act 2003, to notify their licensing authority of their intention to take up their entitlement under section 282 of the Gambling Act 2005 to make up to two category C and D gaming machines available on their premises. To do so, licence-holders must notify their licensing authority of their intention to rely on this entitlement and must pay a fee; these regulations prescribe that fee.

Background

The Gambling Act 2005 introduces a new system of regulation for gambling, which will replace the current system of regulation set out in the Betting, Gaming and Lotteries Act 1963, the Gaming Act 1968 and the Lotteries and Amusements Act 1976.

The government has previously announced that the formal implementation date for the Gambling Act 2005 will be 1 September 2007. On this date, the majority of permissions issued under the existing legislation will expire and be replaced by new licences and permits issued under the 2005 Act

Under the Gaming Act 1968 various associations – including members clubs, commercial clubs and miners' welfare institutes – are afforded particular gaming entitlements, either as of right, or with express permission. The Gambling Act 2005, once it is fully in force, repeals those provisions and provides a replacement regime, which is the subject of the regulations assessed by this paper.

Rationale for government intervention

The intention behind these regulations is to ensure that we have in place consistent, light-touch and user-friendly procedures to enable clubs to obtain gaming and gaming machine permits, which do not place unnecessary burdens on clubs, licensing authorities or the Gambling Commission.

4. Consultation

Within government

DCMS has consulted the Gambling Commission on our proposals.

Public consultation

The one-off notification fee which is the subject of these regulations has been set on the basis of our consultation on Premises Licences and Permits Fees, carried out between November 2006 – January 2007, which was informed by a comprehensive fees costing exercise. Both these exercises sought the views of licensing authorities and the industry, and both were content with our proposal.

Our aim consistently has been to develop practical, user-friendly regulations which strike a balance between the need to be prescriptive, to provide consistency and clarity to licensing authorities, enforcement agencies, the gambling industry and the public, and the need of those same groups for flexibility and proportionate regulation.

5. Options

Option 1. Do nothing

While many of the powers relating to the administration of the application process are reserve powers and, as such, optional, not to use them is likely to result in inconsistency of approach between licensing authorities on matters like the design of permits. This would increase costs for licensing authorities and so increase costs for the clubs involved.

Doing nothing would also mean that regulation of this sector would not be modernised, as envisaged under the Gambling Act.

Option 2. Implement regulations

By adopting light touch regulations we will ensure that the application process for club gaming and club gaming machine permits will be administered in a consistent way nationally. Costs for licensing authorities, which are then passed on to clubs, will be kept to a minimum.

6. Costs and benefits

Sectors and groups affected

The organisations that will be affected by these regulations are:

Holders of on-premises alcohol licences under the Licensing Act 2003.

Benefits

The regulations will ensure a straightforward, light-touch application and administration process for monitoring pub gaming machines, which will keep the costs to the pub sector to a minimum.

Costs

The costs to the sector will be minimal as these regulations concern the payment of a one-off fee.

7. Small firms impact test

We do not consider that this fee will have more than a minimal impact .

8. Competition assessment

The proposed regulations will not limit or influence the number or range of operators. This is because if the operator satisfies the criteria for issue of a permit, then the permit will be issued.

9. Enforcement, sanctions and monitoring

The Act requires licensing authorities to keep a register of permits, make the register and information available for the public to inspect and to allow the public to have copies of entries in the register, for which they may charge a fee. Although the Secretary of State has the discretionary power to prescribe the form of the licensing authority's register and the manner in which it is maintained, we have not exercised this power in these regulations. On the basis of our discussions with licensing authorities in relation to registers of other forms of permit and premises licence issued under the Act, we have concluded that these details should be left to the discretion of the licensing authorities.

The Secretary of State also has the discretionary power to require licensing authorities to give the Gambling Commission specified information about the permits they have issued, and to require the Commission to maintain this information in their own register, and make copies of it available for public examination. We have not exercised this power in the regulations either. The Gambling Commission has published guidance on the information exchange between themselves and the licensing authorities, and we consider this to be sufficient at this stage, although this will be kept under review,.

The Gambling Commission will have overall responsibility for monitoring compliance with the requirements of the Gambling Act 2005 from 1 September 2007. The Commission will continue to advise and work closely with licensing authorities in the exercise of their own monitoring and enforcement functions under the Act.

10. Implementation and delivery plan

The Department is compiling guides for industry and licensing authorities about the transfer to the new system of regulation.

DCMS has worked closely with LACORS, licensing authorities and key industry bodies in designing the content and layout of application forms and permits. Although administrative in nature, all interested parties attach much importance to ensuring consistency and clarity in these forms.

The Department will continue to keep the industry informed about these changes through its established industry, community and licensing authority networks. They will continue to be kept informed at all key stages, e.g. results of consultations and when regulations are being laid and brought into effect.

11. Post-implementation review

This is one of a series of permits introduced by the Gambling Act. The introduction of the permits regime will be monitored through the information on permits that will be maintained in registers held by the licensing authorities and the Gambling Commission. We will also get feedback through three key formal mechanisms: the DCMS Industry Liaison Group; the DCMS Premises Licence Working Group; and, the LACORS Gambling Reform Policy Forum. These fora comprise key representatives from industry and licensing authorities.

12. Summary and recommendation

Ministers have decided to proceed with option 2 above, to proceed with bringing in regulations on club gaming and club gaming machine permits with effect from 1 August 2007.

13. Declaration and publication

I have read the regulatory impact assessment and I am satisfied that the benefits justify the costs.

Richard Caborn
Minister of State

Date

14. Contact point

Julia Frayne
Gaming and Lotteries
Department for Culture Media and Sport
2 – 4 Cockspur Street
London SW1Y 5DH

julia.frayne@culture.gsi.gov.uk

Tel: 020 7211 6361

ANNEX

LIST OF RESPONDENTS TO DCMS CONSULTATION ON PREMISES LICENCE AND PERMIT FEES CONSULTATION:

No	Respondee
1.	Bradford District Council
2.	BHHPA
3.	Cardiff
4.	Manchester City Council
5.	Gala Coral Group
6.	Bartlett's Bookmakers
7.	Rank
8.	London Borough Sutton
9.	BACTA
10.	Leeds City Council
11.	Torbay Council
12.	National Caravan Council
13.	Carlton Bingo
14.	Wyreforest District Council
15.	Poppleston Allen Licensing Solicitors
16.	Casino Operators Association
17.	Sandwell Council
18.	CORCA
19.	Wychavon District Council
20.	Vale of Glamorgan
21.	Racecourse Association
22.	British Beer and Pub Association
23.	ABB
24.	BISL
25.	LACORS
26.	Hillingdon
27.	Kerzner
28.	ALMR
29.	Racecourse Promoters Assn Ltd
30.	Forest-heath
31.	Methodist Church
32.	Camden
33.	London Councils
34.	Bury St Edmund
35.	Wandsworth Council
36.	BCA