
SCOTTISH STATUTORY INSTRUMENTS

2007 No. 394

The Gambling Act 2005 (Review of Premises Licences) (Scotland) Regulations 2007

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Gambling Act 2005 (Review of Premises Licences) (Scotland) Regulations 2007 and shall come into force on 24th September 2007.

(2) These Regulations extend only to Scotland.

Interpretation

2. In these Regulations—

“the Act” means the Gambling Act 2005;

“application” means an application under section 197 of the Act for a review;

“review” means a review of a premises licence under section 201 of the Act; and

“working day” means a day which is not a Saturday or a Sunday, Christmas Day, Good Friday or a bank holiday in Scotland under the Banking and Financial Dealings Act 1971(1).

Giving of notice of an application

3.—(1) A person making an application must give notice of the application to—

(a) the person who holds the premises licence to which the application relates; and

(b) each of the authorities which in accordance with section 157 of the Act are the responsible authorities in relation to the premises to which the application relates.

(2) Where the application is made by a responsible authority, the reference in paragraph (1)(b) to each of the responsible authorities in relation to the premises does not include a reference to the authority making the application.

(3) Subject to regulation 12, a notice under paragraph (1) must be in the form specified in Schedule 1 and must in particular specify the period of 28 days starting on the relevant date as the period during which representations about the application may be made to the licensing authority by—

(a) the person who holds the premises licence to which the application relates;

(b) a responsible authority in relation to the premises; or

(c) a person who is an interested party(2) in relation to the premises.

(4) A notice under paragraph (1) must be given within the period of 7 days starting on the date on which the application is made.

(5) In this regulation and regulation 4, “the relevant date” in relation to an application means the day immediately following the last day of the period referred to in paragraph (4).

(1) 1971 c. 80.

(2) See section 158 of the Act for the meaning of “interested party”.

Publication of notice of an application by the licensing authority

4.—(1) Where an application is made to a licensing authority, that authority must publish notice of the application—

(a) either—

(i) in a local newspaper or, if there is none, a local newsletter, circular or similar document, circulating within the licensing authority's area; or

(ii) on the licensing authority's internet website; and

(b) by displaying the notice at a place—

(i) which is as near as reasonably practicable to the premises to which the application relates; and

(ii) where it can conveniently be read by members of the public.

(2) Where a licensing authority have more than one website, paragraph (1)(a)(ii) requires the authority to publish notice of the application on the website which is wholly or mainly used by them to publicise matters relating to the licensing of gambling.

(3) The notice referred to in paragraph (1)(a)(i) must be published on at least one occasion during the period of 10 working days starting on the first working day after the day on which the application is made to the authority.

(4) The notice referred to in paragraph (1)(a)(ii) or (b) must be displayed or, as the case may be, published for a period of no less than 28 consecutive days starting on a date which is no later than the relevant date.

(5) Subject to regulation 12, a notice under paragraph (1) must be in the form specified in Schedule 2 and must in particular specify the period of 28 days starting on the relevant date as the period during which representations about the application may be made to the licensing authority by—

(a) the person who holds the premises licence to which the application relates;

(b) a responsible authority in relation to the premises; or

(c) a person who is an interested party in relation to the premises.

Failure to give proper notice of an application

5.—(1) This regulation applies where a person who is making an application fails to give proper notice of the application within the period provided for under regulation 3(4).

(2) For the purposes of paragraph (1), a person fails to give proper notice of an application if, in the case of any one or more of the notices which that person is required to give under regulation 3, that person fails to give a notice which complies with the requirements of these Regulations as to the form and manner in which it is to be given.

(3) Subject to paragraph (5), where the applicant fails to give proper notice of an application to the person holding the premises licence or a responsible authority, as the case may be, the applicant must give notice to that person or the authority in a form and manner which complies with the requirements of these Regulations (other than as to the period within which the notice is to be given) as soon as practicable after the end of the period referred to in regulation 3(4).

(4) In a case to which this regulation applies, the person holding the premises licence or, as the case may be, the responsible authority concerned may make any representations about the application within the period of 28 days starting on the day on which the notice referred to in paragraph (3) is received.

(5) Regulation 3(3) is to have effect in relation to the notice to be given under paragraph (3) as if it required the notice to specify the period referred to in paragraph (4) as the period during which representations about the application may be made by the person to whom the notice is given.

- (6) The licensing authority may not grant the application until—
 - (a) notice has been given by the applicant in accordance with paragraph (3); and
 - (b) the period referred to in paragraph (4) has elapsed.
- (7) Subject to paragraph (6), the licensing authority may disregard any irregularity in relation to the giving of notice under regulation 3.

Failure properly to publish notice of an application

6.—(1) This regulation applies where a licensing authority to whom an application is made fail to publish a proper notice of the application during or for the period provided for under (as the case may be) paragraph (3) or (4) of regulation 4.

(2) For the purposes of paragraph (1), a licensing authority fail to publish a proper notice of an application if—

- (a) they fail to publish a notice which they are required to publish under sub-paragraph (a) or (b) of regulation 4(1); or
- (b) the published notice does not comply with the requirements of these Regulations as to the form and manner in which it is to be published.

(3) Subject to paragraph (6), the licensing authority must publish notice of the application in a form and manner which complies with the requirements of these Regulations (other than as to the beginning of the period when publication is to be made) as soon as practicable after the end of the period referred to in (as the case may be) paragraph (3) or (4) of regulation 4.

(4) In a case to which this regulation applies, an interested party may make any representations about the application within the period of 28 days starting on the day on which the notice referred to in paragraph (3) is published.

(5) Where the notice is published in one of the ways referred to in regulation 4(1)(a)(ii) or (b), the period referred to in paragraph (4) is to start on the date on which the notice is first published.

(6) Regulation 4(5) is to have effect in relation to the notice referred to in paragraph (3) as if it required the notice to specify the period referred to in that paragraph as the period during which representations about the application may be made by an interested party.

- (7) The licensing authority may not grant the application until—
 - (a) notice has been published in accordance with paragraph (3); and
 - (b) the period referred to in paragraph (4) has elapsed.

(8) Subject to paragraph (7), the licensing authority may disregard any irregularity in relation to the publication of the notice under sub paragraph (a) or (b) of paragraph (1) of regulation 4.

Giving and publication of notice of intention to conduct a review

7.—(1) Subject to regulation 12, a notice given under section 200(3)(a) of the Act must be in the form specified in Schedule 3.

(2) A notice under section 200(3)(a) of the Act must in particular specify the period of 28 days starting on the day on which the notice is given to the holder of the premises licence as the period during which representations about the review may be made to the licensing authority by—

- (a) the person who holds the premises licence to which the review relates;
- (b) each of the authorities which in accordance with section 157 of the Act are the responsible authorities in relation to the premises; or
- (c) a person who is an interested party in relation to the premises.

(3) A notice under section 200(3)(a) of the Act given to a responsible authority must be given within the period of 7 days starting on the day on which such a notice is given to the holder of the premises licence.

(4) The following provisions of this regulation apply to a notice published by a licensing authority under section 200(3)(b) of the Act indicating that they intend to hold a review.

(5) Subject to regulation 12, the notice must be in the form specified in Schedule 4.

(6) The notice must in particular specify the period of 28 days starting on the day on which the notice under section 200(3)(a) of the Act is given to the holder of the premises licence as the period during which representations about the review may be made to the licensing authority by—

- (a) the person who holds the premises licence to which the notice relates;
- (b) a responsible authority in relation to the premises; or
- (c) a person who is an interested party in relation to the premises.

(7) The licensing authority must publish notice of their intention to hold a review—

(a) either—

- (i) in a local newspaper or, if there is none, a local newsletter, circular or similar document, circulating within the licensing authority's area; or
- (ii) on the licensing authority's internet website; and

(b) by displaying the notice at a place—

- (i) which is as near as reasonably practicable to the premises to which the application relates; and
- (ii) where it can be conveniently read by members of the public.

(8) Where a licensing authority have more than one website, paragraph (7)(a)(ii) requires the licensing authority to publish notice of their intention to hold a review on the website which is wholly or mainly used by them to publicise matters relating to the licensing of gambling.

(9) The notice referred to in paragraph (7)(a)(i) must be published on at least one occasion during the period of 10 working days starting on the first working day after the day on which the licensing authority give notice under section 200(3)(a) of the Act to the holder of the premises licence of their intention to hold a review.

(10) The notice referred to in paragraph (7)(a)(ii) or (b) must be displayed or, as the case may be, published for a period of no less than 28 consecutive days starting on the day on which the licensing authority give notice under section 200(3)(a) of the Act to the holder of the premises licence of their intention to hold a review.

Failure to give proper notice of intention to hold a review to the holder of the premises licence

8.—(1) This regulation applies where a licensing authority give notice under section 200(3)(a) of the Act to the holder of the premises licence and the notice is not given in all respects in the form and manner required by these Regulations.

(2) The notice given by the licensing authority is of no effect and the licensing authority must give a further notice which complies with the requirements of these Regulations as to the form and manner in which a notice under section 200(3)(a) of the Act is to be given.

Failure to give proper notice of intention to hold a review to a responsible authority

9.—(1) This regulation applies where a licensing authority, which give notice under section 200(3)(a) of the Act to a responsible authority, fail to give a proper notice of their intention to hold a review within the period provided for under regulation 7(3).

(2) For the purposes of paragraph (1), a licensing authority fail to give a proper notice of their intention to hold a review if they fail to give a notice to the responsible authority which complies with the requirements of these Regulations as to the form and manner in which it is to be given.

(3) Subject to paragraph (5), where the licensing authority fail to give proper notice of their intention to hold a review to a responsible authority, they must give notice to that authority in a form and manner which complies with the requirements of these Regulations (other than as to the period within which the notice is to be given) as soon as practicable after the end of the period referred to in regulation 7(3)).

(4) In a case to which this regulation applies, the responsible authority concerned may make any representations about the application within the period of 28 days starting on the day on which the notice referred to in paragraph (3) is received.

(5) Regulation 7(2) is to have effect in relation to the notice to be given under paragraph (3) as if it required the notice to specify the period referred to in paragraph (4) as the period during which representations about the application may be made by the responsible authority to which the notice is given.

(6) The licensing authority may not grant the application until—

- (a) notice has been given by the applicant in accordance with paragraph (3); and
- (b) the period referred to in paragraph (4) has elapsed.

(7) Subject to paragraph (6), the licensing authority may disregard any irregularity in relation to the giving of the notice under section 200(3)(a) of the Act to the responsible authority concerned.

Failure properly to publish notice of intention to hold a review

10.—(1) This regulation applies where a licensing authority fail to publish a proper notice of their intention to hold a review during or for the period provided for under (as the case may be) paragraph (9) or (10) of regulation 7.

(2) For the purposes of paragraph (1), a licensing authority fail to publish a proper notice of their intention to hold a review if—

- (a) they fail to publish a notice under section 200(3)(b) of the Act in the manner in which they are required to publish the notice under sub-paragraph (a) or (b) of regulation 7(7), or
- (b) the published notice does not comply with the requirements of these Regulations as to the form and manner in which it is to be published.

(3) Subject to paragraph (6), the licensing authority must publish the notice in a form and manner which complies with the relevant requirements of these Regulations (other than as to the beginning of the period when publication is to be made) as soon as practicable after the end of the period referred to in (as the case may be) paragraph (9) or (10) of regulation 7.

(4) In a case to which this regulation applies, an interested party may make any representations about the review within the period of 28 days starting on the day on which the notice referred to in paragraph (3) is published.

(5) Where the notice is published in one of the ways referred to in regulation 7(7)(a)(ii) or (b), the period referred to in paragraph (4) above is to start on the date on which the notice is first published.

(6) Regulation 7(6) is to have effect in relation to the notice referred to in paragraph (3) as if it required the notice to specify the period referred to in that paragraph as the period during which representations about the application may be made by an interested party.

(7) The licensing authority may not hold the review until—

- (a) notice has been published in accordance with paragraph (3); and
- (b) the period referred to in paragraph (4) has elapsed.

(8) Subject to paragraph (7), the licensing authority may disregard any irregularity in relation to the publication of a notice under section 200(3)(b) of the 2005 Act.

Manner of making and giving of notices

11.—(1) A notice under regulation 3 or under section 200(3)(a) of the Act must be given in writing.

(2) For the purposes of paragraph (1), a notice which is sent by facsimile transmission or electronic mail shall be treated as given in writing if it meets the conditions in paragraph (3).

(3) The conditions are that—

- (a) the text of the notice—
 - (i) is capable of being accessed by the recipient;
 - (ii) is legible in all material respects; and
 - (iii) is capable of being read and reproduced in written form and used for subsequent reference by the recipient; and
- (b) the person to whom the notice is to be given has agreed in advance that a notice may be given by the particular electronic means used.

(4) Where a notice is sent by facsimile transmission or electronic mail, it is to be treated as having been given at the time the conditions specified in paragraph (3)(a) are satisfied.

Matters not required to be included in a notice

12.—(1) Where matters are included in square brackets in any form in Schedules 1 to 4, they are intended to indicate and explain the information to be specified in the notice to which the form relates and are not required to be included in the notice.

(2) The first page of the form used for a notice may include any symbol or logo which is commonly used by the licensing authority to identify documents produced by them.

(3) In paragraph (2), “the licensing authority” means—

- (a) in relation to a notice of an application under regulation 3, the licensing authority to whom the application is made; and
- (b) in relation to a notice given or published by a licensing authority, that authority.

St Andrew’s House, Edinburgh
30th August 2007

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