

Changes to legislation: There are currently no known outstanding effects for the Gambling Act 2005, SCHEDULE 9. (See end of Document for details)

SCHEDULES

SCHEDULE 9 **E+W+S**

Section 175

APPLICATIONS FOR CASINO PREMISES LICENCES

Introduction

- 1 (1) This Schedule applies to an application for a casino premises licence of a kind in respect of which a limit under section 175 has effect.
- (2) An application for the variation or transfer of a premises licence is not to be treated for the purposes of this Schedule as an application for a premises licence (despite sections 187(3) and 188(2)).

Commencement Information

- I1** [Sch. 9 para. 1](#) in force at 21.5.2007 by [S.I. 2006/3272, art. 2\(3\)](#), [Sch. 3](#) (with arts. 7-11, 7-12, [Sch. 4](#)) (as amended by [SI 2007/1157, art. 3\(3\), 4\(2\)](#))
- I2** [Sch. 9 para. 1](#) in force at 20.5.2008 for specified purposes by [S.I. 2008/1326, art. 2](#), [Sch.](#)

Competition for licences

- 2 (1) Before considering an application to which this Schedule applies a licensing authority shall comply with regulations of the Secretary of State about inviting competing applications.
- (2) The regulations shall, in particular, make provision—
 - (a) about the publication of invitations (including provision as to the manner and timing of publication and the matters to be published), and
 - (b) about the timing of responses.

Commencement Information

- I3** [Sch. 9 para. 2](#) in force at 21.5.2007 by [S.I. 2006/3272, art. 2\(3\)](#), [Sch. 3](#) (with arts. 7-11, 7-12, [Sch. 4](#)) (as amended by [SI 2007/1157, art. 3\(3\), 4\(2\)](#))
- I4** [Sch. 9 para. 2](#) in force at 20.5.2008 for specified purposes by [S.I. 2008/1326, art. 2](#), [Sch.](#)

Two-stage consideration

- 3 Paragraph 4 applies where (whether or not as a result of the competition provided for by paragraph 2)—
 - (a) a number of applications for a casino premises licence are made to a licensing authority (“the competing applications”), and
 - (b) as a result of section 175 and the order under it the authority are able to grant one or more, but not all, of the competing applications.

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- I5** Sch. 9 para. 3 in force at 21.5.2007 by S.I. 2006/3272, art. 2(3), Sch. 3 (with arts. 7-11, 7-12, Sch. 4) (as amended by SI 2007/1157, art. 3(3), 4(2))
- I6** Sch. 9 para. 3 in force at 20.5.2008 for specified purposes by S.I. 2008/1326, art. 2, Sch.

- 4 (1) The licensing authority shall first consider in respect of each application whether they would grant it under section 163 if section 175 did not apply.
- (2) For that purpose—
- (a) the authority shall not have regard to whether any of the other competing applications is more deserving of being granted,
 - (b) subject to paragraph (a), each competing applicant is an interested party in relation to each of the other competing applications, and
 - (c) Part 8 shall apply, but with the substitution for a reference to the grant of an application in sections 163(1)(a) and 206(2) of a reference to a provisional decision to grant an application subject to the provisions of paragraph 5 below.

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- I7** Sch. 9 para. 4 in force at 21.5.2007 by S.I. 2006/3272, art. 2(3), Sch. 3 (with arts. 7-11, 7-12, Sch. 4) (as amended by SI 2007/1157, art. 3(3), 4(2))
- I8** Sch. 9 para. 4 in force at 20.5.2008 for specified purposes by S.I. 2008/1326, art. 2, Sch.

- 5 (1) This paragraph applies if a licensing authority determine under paragraph 4 that they would grant a number of competing applications greater than the number which they can grant as a result of section 175 and the order under it.
- (2) The authority shall then determine which of those applications to grant under section 163(1)(a).
- (3) For that purpose the authority—
- (a) shall determine which of the competing applications would, in the authority's opinion, be likely if granted to result in the greatest benefit to the authority's area,
 - (b) may enter into a written agreement with an applicant, whether as to the provision of services in respect of the authority's area or otherwise,
 - (c) may determine to attach conditions under section 169 to any licence issued so as to give effect to an agreement entered into under paragraph (b), and
 - (d) may have regard to the effect of an agreement entered into under paragraph (b) in making the determination specified in paragraph (a).
- (4) Having determined to grant one or more applications under sub-paragraph (2) the authority shall—
- (a) grant that application or those applications under section 163(1)(a), and
 - (b) reject the other competing applications under section 163(1)(b).
- (5) The list in section 164(1)(a) shall be treated as including any competing applicant whose application the authority decided provisionally to grant under paragraph 4.

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- I9** Sch. 9 para. 5 in force at 21.5.2007 by S.I. 2006/3272, art. 2(3), Sch. 3 (with arts. 7-11, 7-12, Sch. 4) (as amended by SI 2007/1157, art. 3(3), 4(2))
- I10** Sch. 9 para. 5 in force at 20.5.2008 for specified purposes by S.I. 2008/1326, art. 2, Sch.

- 6 (1) The Secretary of State may issue a code of practice about—
- (a) the procedure to be followed in making the determinations required by paragraphs 4 and 5, and
 - (b) matters to which a licensing authority should have regard in making those determinations.
- (2) A licensing authority shall comply with a code of practice under sub-paragraph (1).

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- I11** Sch. 9 para. 6 in force at 21.5.2007 by S.I. 2006/3272, art. 2(3), Sch. 3 (with arts. 7-11, 7-12, Sch. 4) (as amended by SI 2007/1157, art. 3(3), 4(2))
- I12** Sch. 9 para. 6 in force at 20.5.2008 for specified purposes by S.I. 2008/1326, art. 2, Sch.

- 7 (1) Where a licensing authority issue a casino premises licence following a determination to grant an application in accordance with paragraph 5, a condition attached to the licence under section 169 may, in particular, give effect to any agreement entered into under paragraph 5(3)(b) above.
- (2) In that case—
- (a) the condition shall refer to the agreement,
 - (b) a copy of the agreement shall be attached to the licence, and
 - (c) a variation of the agreement shall have effect only if accompanied by variation of the condition under section 187.

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- I13** Sch. 9 para. 7 in force at 21.5.2007 by S.I. 2006/3272, art. 2(3), Sch. 3 (with arts. 7-11, 7-12, Sch. 4) (as amended by SI 2007/1157, art. 3(3), 4(2))
- I14** Sch. 9 para. 7 in force at 20.5.2008 for specified purposes by S.I. 2008/1326, art. 2, Sch.

- 8 (1) An appeal may be brought under section 206(1) or (2) in respect of a decision under paragraph 4.
- (2) While an appeal under section 206 could be brought by virtue of sub-paragraph (1), or has been brought by virtue of that sub-paragraph and has not yet been either finally determined or abandoned, the licensing authority shall take no action under paragraph 5(2).
- (3) Sub-paragraph (2) has effect in place of section 208 in respect of an appeal by virtue of sub-paragraph (1).
- (4) No appeal may be brought under section 206 in respect of a decision under paragraph 5.

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- I15** Sch. 9 para. 8 in force at 21.5.2007 by S.I. 2006/3272, art. 2(3), Sch. 3 (with arts. 7-11, 7-12, Sch. 4) (as amended by SI 2007/1157, art. 3(3), 4(2))
- I16** Sch. 9 para. 8 in force at 20.5.2008 for specified purposes by S.I. 2008/1326, art. 2, Sch.

Provisional statements

- 9 A reference in this Schedule to an application for a casino premises licence includes a reference to an application for a provisional statement where this Schedule would apply to an application for a premises licence made in reliance on the provisional statement.

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- I17** Sch. 9 para. 9 in force at 21.5.2007 by S.I. 2006/3272, art. 2(3), Sch. 3 (with arts. 7-11, 7-12, Sch. 4) (as amended by SI 2007/1157, art. 3(3), 4(2))
- I18** Sch. 9 para. 9 in force at 20.5.2008 for specified purposes by S.I. 2008/1326, art. 2, Sch.

- 10 (1) This paragraph applies where the process described in paragraphs 3 to 5 results in the issue of a provisional statement.
- (2) Paragraphs 2 to 5 shall not apply by reason only of the fact that an application for a casino premises licence is made—
- (a) in reliance on the provisional statement, and
 - (b) while it has effect.
- (3) The licensing authority may provide in the provisional statement for it to cease to have effect at the end of a specified period.
- (4) A licensing authority may extend a period specified under sub-paragraph (3) on the application of the person to whom the provisional statement is issued; and—
- (a) the Secretary of State may by regulations provide for the procedure to be followed in relation to an application under this subsection, and
 - (b) sections 206 to 209 shall apply but—
 - (i) with the omission of section 206(2)(a),
 - (ii) as if section 208(1) referred not to a determination or other action under this Part but to a provision included in a provisional statement under sub-paragraph (3) above, and
 - (iii) with any other necessary modifications.

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- I19** Sch. 9 para. 10 in force at 21.5.2007 by S.I. 2006/3272, art. 2(3), Sch. 3 (with arts. 7-11, 7-12, Sch. 4) (as amended by SI 2007/1157, art. 3(3), 4(2))
- I20** Sch. 9 para. 10 in force at 20.5.2008 for specified purposes by S.I. 2008/1326, art. 2, Sch.

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