

SCHEDULE 1

Article 2(1)

Provisions coming into force on 1st January 2007

<i>Column 1</i>	<i>Column 2</i>
Section 28	In so far as it relates to an offence under section 342.
Section 65 (to the extent that section is not already in force) and sections 66 to 74	For the purpose of— (a) enabling advance applications for operating licences to be made, considered and determined; and (b) enabling such licences to be issued before 1st September 2007.
Sections 75, 76 and 79 (to the extent that those sections are not already in force)	
Sections 77 and 78	
Sections 80, 81 and 84 to 88	
Section 89 (apart from subsections (2) and (3))	
Sections 90 to 99	
Sections 100 to 107	
Section 109	
Sections 113 to 115	
Subsections (2)(b) and (c) and (3) to (5) of section 116	
Sections 117 to 120	In so far as those sections relate to a review under paragraph (b) or (c) of section 116(2).

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<i>Column 1</i>	<i>Column 2</i>
Section 122	
Sections 124 to 126	
Section 128 (to the extent that section is not already in force) and section 130	For the purpose of applying the provisions listed above in Column 1 to— (a) the making, consideration and determination of advance applications for personal licences; and (b) personal licences issued on the grant of such applications.
Sections 129, 132, 133 and 136	

<i>Column 1</i>	<i>Column 2</i>
Sections 140 to 149	
Section 235 (other than subsections (2)(a), (3)(f) and (4))	
Sections 237 to 241, 248(2) and 251	
Sections 252 to 257	
Sections 285 and 288	
Section 291	For the purpose of enabling conditions to be attached to an operating licence under section 75 or section 78 in connection with any of the matters referred to in subsections (2) and (3) of section 291.
Section 342	In so far as it relates to the provision of information to the Gambling Commission.
Sections 341 and 345	In so far as each of these provisions relate to an offence under section 342.
Sections 350 to 353	

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<i>Column 1</i>	<i>Column 2</i>
Section 356(1) and (2)	In so far as it relates to paragraph 12 of Schedule 16.
Section 356(4) and (5)	In so far as it relates to the entry in Schedule 17 specified below (whose purpose is limited as specified below).
Schedule 7 (for all remaining purposes)	
Schedule 8	
Paragraph 12 of Schedule 16	For the purposes of enabling a person to obtain an enhanced criminal records certificate under section 115 of the Police Act 1997 <sup>(1)</sup> in respect of an advance application for an operating or a personal licence. This is to be without prejudice to paragraphs (a) to (c) of section 115(5) of that Act continuing to have effect without the amendment made by paragraph 2 of Schedule 16 for the purposes of the matters referred to in those paragraphs.
In Schedule 17, the entry relating to the 1963 Act	For the purposes of repealing paragraph 10 of Schedule 2 to that Act.
In Schedule 17, the entry relating to the Gaming (Bingo) Act 1985	For the purposes of repealing paragraph 5(b) of the Schedule to that Act.

SCHEDULE 2

Article 2(2)

Provisions coming into force on 30th April 2007

<i>Column 1</i>	<i>Column 2</i>
Section 7(5) to (7)	
Sections 150 to 153	
Section 154 (for all remaining purposes)	

<sup>(1)</sup> 1997 c. 50.

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<i>Column 1</i>	<i>Column 2</i>
Sections 155 to 158	
Sections 159 to 165	<p>(1) Subject to paragraph (3) below, sections 159 to 165 are to have effect for the purpose of enabling advance applications for premises licences under Part 8 of the 2005 Act to be made, considered and determined; and for enabling such licences to be issued before 1st September 2007.</p> <p>(2) Sections 159 to 165 are also to have effect for the purposes of applications for provisional statements under section 204 of the 2005 Act.</p> <p>(3) The reference in paragraph (1) to applications for premises licences is not to include non-conversion applications for casino premises licences.</p>
Sections 167 to 171	
Sections 174(1), 176(1) and (2)	
Section 181	
Section 184	
Sections 186 to 189	
Sections 190 and 192	
Sections 194 to 196	
Section 204	<p>(1) Subject to paragraph (2) below, section 204 is to have effect for the purposes of enabling applications for a provisional statement to be made, considered and determined; and for enabling such statements to be issued.</p> <p>(2) The reference in paragraph (1) to applications for a provisional statement is not to include applications for a provisional statement in respect of a casino.</p>
<i>Column 1</i>	<i>Column 2</i>

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<i>Column 1</i>	<i>Column 2</i>
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Sections 206 to 209	
Sections 210 to 213	
Section 235 (for all remaining purposes)	
Section 236	
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Section 285	
Section 289(3)	In so far as it relates to the provisions of Schedule 14 specified below in this Schedule.
Sections 303, 304, 309(1), 311(1), 313(1) and 317 to 326	
Section 342 (for all remaining purposes)	
Section 343	
Section 346(1)(1), (2) and (3)	
In Schedule 10, paragraphs 2 to 6, 8 to 11 and 22	For the purposes of— (a) enabling advance applications for family entertainment centre gaming machine permits to be made, considered and determined; (b) enabling appeals in connection with such applications to be made, considered and determined; and (c) enabling such permits to be issued before 1st September 2007.

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<i>Column 1</i>	<i>Column 2</i>
In Schedule 10, paragraph 7(3) (for all remaining purposes) and paragraphs 12(a), 13, 15 to 17, 21, 23 and 24	

<i>Column 1</i>	<i>Column 2</i>
In Schedule 14, paragraphs 3 to 7, 9 to 12 and 22	For the purposes of— (d) enabling advance applications for prize gaming permits to be made, considered and determined; (e) enabling appeals in connection with such applications to be made, considered and determined; and (f) enabling such permits to be issued before 1st September 2007.
In Schedule 14, paragraphs 2, 8(3) (for all remaining purposes), 13(a), 14 to 17, 21, 23 and 24	

SCHEDULE 3

Article 2(3)

Provisions coming into force on 1st June 2007

<i>Column 1</i>	<i>Column 2</i>
Sections 159 to 165	(1) Sections 159 to 165 are to have effect for the purposes of enabling non-conversion applications for casino premises licences to be made, considered and determined; and for enabling such licences to be issued before 1st September 2007. (2) Sections 159 to 165 are also to have effect for the purposes of applications for provisional statements under section 204 of the 2005 Act with respect to casinos.
Section 175	
Section 204 (for all remaining purposes)	
Sections 266 to 268	

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<i>Column 1</i>	<i>Column 2</i>
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<i>Column 1</i>	<i>Column 2</i>
Section 283(2)	
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Sections 310(1) and 312(4)	
Schedule 9	
In Schedule 12, paragraphs 1 to 11 and 25	For the purposes of— (a) enabling advance applications for club gaming permits and club machine permits to be made, considered and determined; (b) enabling appeals in connection with such applications to be made, considered and determined; and (c) enabling such permits to be issued before 1st September 2007.
In Schedule 12, paragraphs 15 to 21, 23 and 26 to 31	
In Schedule 13, paragraphs 1 to 7 and 21	For the purposes of— (a) enabling advance applications for club gaming permits and club machine permits to be made, considered and determined; (b) enabling appeals in connection with such applications to be made, considered and determined; and

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Column 1	Column 2
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In Schedule 13, paragraphs 11 to 20, 22 and 23	

SCHEDULE 4

Article 6

Transitional provisions

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- Signature  
Explanatory Note

## PART 1

### General

#### **Interpretation**

- 1.—(1) In this Schedule—

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“amusement machine premises” has the meaning given by section 34(7A) of the 1968 Act(2);

“bingo club licence” means a licence under the 1968 Act granted in respect of any premises, where the licence, as it has effect immediately before 1st September 2007, is subject to restrictions under paragraph 25 of Schedule 2 to that Act under which gaming on those premises to which Part 2 of that Act applies is limited to the playing of bingo;

“casino licence” means a licence under the 1968 Act other than a bingo club licence.

(2) For the purposes of this Schedule (and unless the contrary intention appears) where—

(a) the licensing authority under the 2005 Act is to be determined by reference to which authority’s area premises are situated in, and

(b) the premises are situated in the area of more than one authority,

the licensing authority is the authority in whose area the greater or greatest part of the premises is situated.

(3) The following provisions of this paragraph are to have effect for the purposes of determining, where an application for an operating or personal licence is rejected, when that application is to be treated as having been finally determined for the purposes of this Schedule.

(4) If there is no appeal to the Gambling Appeals Tribunal the application is to be treated as having been finally determined on the expiry of the period for appealing.

(5) Where such an appeal is made and—

(a) the appeal is withdrawn, or

(b) the appeal is allowed,

then (subject to sub-paragraph (8)) the application is to be treated as having been finally determined when the appeal is withdrawn or, as the case may be, determined.

(6) Where the appeal to the Gambling Appeals Tribunal is refused and no appeal is made under section 143 of the 2005 Act, the application is to be treated as having been finally determined on the expiry of the period for appealing against the decision of the Gambling Appeals Tribunal.

(7) Where an appeal is made under section 143 of the 2005 Act, then (subject to sub-paragraph (8)) the application is to be treated as having been finally determined on the date on which the appeal is determined or withdrawn.

(8) Where the result of an appeal is that the matter is remitted to the body against whose decision the appeal is made, the application is to be treated as having been finally determined when any subsequent proceedings relating to the decision to reject the application are finally determined (as determined in accordance with sub-paragraphs (4) to (7)).

## PART 2

### Transitional provisions relating to the grant and renewal of licences and other documents, and registrations, under enactments to be repealed by the Gambling Act 2005

#### **Betting, Gaming and Lotteries Act 1963: restrictions on applications**

2.—(1) This paragraph and paragraphs 3 and 4 apply with respect to the grant of licences and other documents, and registrations, under the 1963 Act during the period beginning on the date on

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(2) Subsection (7A) was inserted by [S.I. 1996/1359](#). That subsection defines “amusement machine premises” to mean premises used wholly or mainly for the provision of amusements by means of machines to which Part 3 of the 1968 Act applies.

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which this Order comes into force and ending on the date on which the repeal of that Act for all purposes takes effect.

(2) Any application under the 1963 Act of the following kinds may be granted only where the application is made before 28th April 2007 and, in a case to which paragraph 4 applies, the condition referred to in sub-paragraph (3) of that paragraph is met—

- (a) an application under paragraph 5 of Schedule 1 for the grant of a bookmaker's permit, betting agency permit or betting office licence;
- (b) an application under paragraph 5 of Schedule 2 for the registration of a person as a pool promoter;
- (c) an application under paragraph 3 of Schedule 3 for the grant of a track betting licence;
- (d) an application for a certificate of approval under section 13(3) for a ground to be used as a horse racecourse;
- (e) an application for a licence authorising an inter-track betting scheme under paragraph 2 of Schedule 5ZA(4).

### **Betting, Gaming and Lotteries Act 1963: period for which licences and other documents and registrations are to have effect**

3.—(1) Any licence or permit, granted under Schedule 1 or 3 to the 1963 Act on or after the date on which this Order comes into force but before 1st September 2007, is to cease to have effect at the end of 31st August 2007; and paragraph 29 of Schedule 1 to the 1963 Act(5) and paragraph 8 of Schedule 3 to that Act are to have effect as if modified accordingly.

(2) Sub-paragraph (1) is without prejudice to any provisions of Schedule 1 or 3 to the 1963 Act under which such a licence or permit may be revoked or cancelled before the date on which it is due to expire.

(3) Where a person is registered as a pool promoter under Schedule 2 to the 1963 Act on or after the date on which this Order comes into force, the registration is to cease to have effect at the end of 31st August 2007 (unless revoked before that date under paragraph 5 of that Schedule).

(4) Where on or after the date on which this Order comes into force the Levy Board issue a certificate of approval under section 13 of the 1963 Act for a horse racecourse, the certificate is to cease to have effect at the end of 31st August 2007 (unless revoked before that date under that section).

(5) Where any licence authorising an inter-track betting scheme is granted under Schedule 5ZA to the 1963 Act on or after the date on which this Order comes into force, the licence is to cease to have effect at the end of 31st August 2007 (unless revoked before that date under paragraph 11 of that Schedule); and paragraph 7 of that Schedule is to have effect as if modified accordingly.

### **Betting, Gaming and Lotteries Act 1963: grant of licences etc. on or after 1st September 2007**

4.—(1) This paragraph applies to an application for—

- (a) a betting office licence under Schedule 1 to the 1963 Act,
- (b) a track betting licence under Schedule 3 to that Act, or
- (c) certificate of approval under section 13 of that Act (other than a point to point certificate),

(3) Section 13 was amended by the Horserace Totalisator and Betting Levy Boards Act 1972 (c. 69), section 5(1). Amendments have also been made by the Horserace Betting and Olympic Lottery Act 2004 (c. 25), Schedule 4, paragraphs 1 and 2.

(4) Schedule 5ZA was inserted by S.I. 1995/3231.

(5) Paragraph 29 of Schedule 1 was amended by S.I. 1997/947.

which is not determined before 1st September 2007.

(2) Such a licence or certificate is referred to in this paragraph as a licence or certificate under the 1963 Act.

(3) A licence or certificate under the 1963 Act may only be granted on such an application if—

- (a) the applicant is applying under Part 8 of the 2005 Act for a premises licence in respect of the same or substantially the same premises as those in respect of which the licence or certificate under the 1963 has effect, and
- (b) he qualifies for the purposes of that application as the existing premises operator (within the meaning of paragraph 53 of this Schedule) in relation to the premises by virtue of the fact that he is applying for the licence or certificate under the 1963 Act.

(4) Where a licence or certificate under the 1963 Act is granted in accordance with sub-paragraph (3)—

- (a) it is only to have effect for the purposes of Part 7 of this Schedule (which provides for the conversion of licences etc. under enactments to be repealed by the 2005 Act into premises licences under that Act), and
- (b) it is to cease to have effect when the application for a premises licence referred to in sub-paragraph (3) is determined or withdrawn.

#### **Gaming Act 1968: restrictions on applications**

5.—(1) This paragraph and paragraphs 6 to 11 apply with respect to the grant or renewal of licences, registrations and permits under the 1968 Act during the period beginning on the date on which this Order comes into force and ending on the date on which the repeal of that Act for all purposes takes effect.

(2) Any application of the following kinds may be granted only where the application for the licence or permit is made before 28th April 2007 and, in a case to which paragraph 9 or 11 applies, the condition referred to in sub-paragraph (2) of that paragraph is met—

- (a) a licence under the 1968 Act;
- (b) a permit under section 34 of that Act<sup>(6)</sup> (which makes provision about the use for gaming of machines to which Part 3 of that Act applies) in respect of amusement machine premises.

(3) The restriction in sub-paragraph (2) with respect to applications made on or after 28 April 2007 does not apply where—

- (a) the application is for a casino licence;
- (b) the applicant holds one or more other casino licences in respect of premises in the same licensing area; and
- (c) the certificate of consent issued under paragraph 4 of Schedule 2 to the 1968 Act for the purposes of the application was issued by the Gambling Commission in pursuance of article 2(2) and (3) of the Gambling Act 2005 (Transitional Provisions) Order 2006<sup>(7)</sup> (which specifies the circumstances in which the Commission may issue a certificate of consent for a casino licence where the application is made on or after 29th April 2006).

(4) In sub-paragraph (3)(b) the reference to the same licensing area is—

- (a) where the premises to which the application relates are in England or Wales, to the local justice area in which those premises are situated; and

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<sup>(6)</sup> Section 34 was amended by [S.I. 1996/1359](#) and [S.I. 2003/3275](#).

<sup>(7)</sup> [S.I. 2006/1038](#).

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(b) where the premises to which the application relates are in Scotland, to the area of the licensing board (being the licensing board constituted under section 1 of the Licensing (Scotland) Act 1976<sup>(8)</sup>) in which those premises are situated.

(5) The Gambling Commission may grant an application for the renewal of a certificate under section 27 of the 1968 Act (which makes provision about the sale, supply and maintenance of machines to which Part 3 of that Act applies) only where the certificate is due to expire in accordance with paragraph 3 of Schedule 6 to that Act before 31st August 2007.

(6) The licensing authority (within the meaning of, as the case may be, Schedule 3, 4, 7 or 8 to the 1968 Act) may grant an application for the renewal of a registration under Part 2 or 3 of that Act only where the registration is due to expire before 31st August 2007.

(7) The appropriate authority (within the meaning of paragraph 1(a) or (c) of Schedule 9 to the 1968 Act<sup>(9)</sup>) may grant an application for the renewal of a permit under section 34 of that Act only where the permit is due to expire in accordance with paragraph 18 of that Schedule before 31st August 2007.

#### **Gaming Act 1968: applications for the grant of a licence under that Act where a certificate of consent has been applied for but not obtained**

6.—(1) A person may apply for the grant or transfer of a licence under the 1968 Act provided that—

- (a) the relevant consent application has been made to the Gambling Commission,
- (b) and that application has not been withdrawn or refused.

(2) Sub-paragraph (1) is to apply whether or not the relevant consent application has been approved; and (as the case may be) paragraph 3 or 55 of Schedule 2 to the 1968 Act is to have effect as if modified accordingly.

(3) Where an application for the grant or transfer of a licence under the 1968 Act is made before a certificate of consent has been issued by the Gambling Commission with respect to the application, paragraph 5(2) or (as the case may be) paragraph 58(1) of Schedule 2 to that Act<sup>(10)</sup> is to have effect as if it required the application to be accompanied by a copy of the relevant consent application.

(4) Paragraphs 6 and 7 of Schedule 2 to the 1968 Act<sup>(11)</sup> are only to apply in a case falling within sub-paragraph (3) where a certificate of consent is issued on the grant of the relevant application; and in such a case those paragraphs are to have effect as provided in sub-paragraph (5).

(5) Where in a case falling within sub-paragraph (3) a certificate of consent is issued on the grant of the relevant consent application—

- (a) sub-paragraph (1) of paragraph 6 of Schedule 2 to the 1968 Act is to have effect as if it required the person applying for the grant of the 1968 Act licence to do the things referred to in that sub-paragraph not later than 14 days after the date on which he receives the certificate of consent issued on the relevant consent application; and
- (b) sub-paragraph (1) of paragraph 7 of that Schedule is to have effect as if it required the applicant to send the licensing authority a copy of the certificate of consent at the same time as it sends the things referred to in that sub-paragraph.

<sup>(8)</sup> 1976 c. 66.

<sup>(9)</sup> Sub-paragraph (a) of paragraph 1 was amended by the Licensing Act 2003 (c. 17), Schedule 6, paragraphs 48 and 52(1) and (2). Sub-paragraph (c) of paragraph 1 was substituted by the Licensing (Scotland) Act 1976 (c. 66), section 133(3).

<sup>(10)</sup> Paragraph 5 of Schedule 2 was amended by the Gaming (Amendment) Act 1982 (c. 22), section 1 and Schedule 1, paragraph 3, by the Access to Justice Act 1999, Schedule 13, paragraphs 57 and 58(1) and (3), and by the Fire and Rescue Services Act 2004 (c. 21), paragraphs 24(1) and (3).

<sup>(11)</sup> Paragraphs 6 and 7 of Schedule 2 were amended by the Gaming (Amendment) Act 1982 (c. 22), section 1 and Schedule 1, paragraph 4 and by the Access to Justice Act 1999 (c. 22), Schedule 13, paragraphs 57 and 58(1), (3) and (4).



(6) The Gambling Commission must notify the licensing authority responsible for determining the application for the grant or transfer of the 1968 Act licence if the relevant consent application is refused.

(7) The licensing authority must refuse the application for the grant or transfer of a 1968 Act licence if the relevant consent application is refused.

(8) In this paragraph, references to the relevant consent application, in relation to an application for the grant or transfer of a casino licence, are to an application for a certificate of consent under (as the case may be) paragraph 4 or 56 of Schedule 2 to the 1968 Act<sup>(12)</sup>, where the application—

- (a) is in respect of the same premises as those to which the application for the grant or transfer of the casino licence relates, and
- (b) where the application relates to the grant of a casino licence, is not made only for the purposes of an application for the grant of a bingo club licence.

(9) In this paragraph, references to the relevant consent application, in relation to an application for the grant or transfer of a bingo club licence, are to an application for a certificate of consent under (as the case may be) paragraph 4 or 56 of Schedule 2 to the 1968 Act where the application—

- (a) is in respect of the same premises as those to which the application for the grant or transfer of the bingo club licence relates, and
- (b) where the application relates to the grant of a bingo club licence, is made only for the purposes of an application for the grant of a bingo club licence.

#### **Gaming Act 1968: restrictions on applications for a certificate of approval under section 19**

7.—(1) The Gambling Commission may issue a certificate under section 19 of the 1968 Act only where the application is made before 1st June 2007.

(2) Where—

- (a) a notice is issued under subsection (3) of section 19 of the 1968 Act before 1st June 2007, but
- (b) no application for a certificate under subsection (4) of that section is made before that date,

the notice is to cease to have effect on that date.

(3) Where such a notice is issued on or after 1st June 2007, subsection (4) of section 19 of the 1968 Act is to have effect in relation to the notice as if—

- (a) it required the person on whom it is served, before the end of such period (not being less than 21 days from the date of service of the notice) as may be specified in the notice, to obtain a personal licence under the 2005 Act whose effect would be to authorise the performance of the functions to which the notice relates; and
- (b) it prohibited that person from performing those functions once that period has expired unless—
  - (i) such a personal licence has been granted to him by the Gambling Commission and has effect for the time being for the purposes of that subsection, or
  - (ii) he is applying for such a personal licence and that application has not been finally determined or withdrawn.

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(12) Paragraph 4 of Schedule 2 to the 1968 Act was amended by the Gaming (Amendment) Act 1982, section 1 and paragraph 2 of Schedule 1, and by the Gaming Amendment Act 1990 (c. 26), section 1 and paragraph 7 of the Schedule to that Act. Paragraph 56 of Schedule 2 to the 1968 Act was amended by the Gaming Amendment Act 1990, section 1 and paragraph 8 of the Schedule to that Act.

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### **Gaming Act 1968: period for which licences, registrations, and permits are to have effect**

8.—(1) Subject to paragraph 62 below, where a licence under the 1968 Act is granted or renewed under Schedule 2 to that Act on or after the date on which this Order comes into force but before 1st September 2007, the licence is to cease to have effect at the end of 31st August 2007; and paragraph 52 of that Schedule(13) is to have effect as if modified accordingly.

(2) Sub-paragraph (1) is without prejudice to any provisions of Schedule 2 to the 1968 Act under which a licence may be cancelled (whether in consequence of the revocation of the certificate of consent or by virtue of a disqualification order under that Schedule or otherwise).

(3) Where on or after the date on which this Order comes into force but before 1st September 2007—

- (a) a club or miners' welfare institute is registered under Part 2 or Part 3 of the 1968 Act, or
- (b) such a registration is renewed,

the registration is to cease to have effect at the end of 31st August 2007; and paragraph 19 of Schedule 3(14), paragraph 17 of Schedule 4(15) and paragraph 22 of Schedule 7 to that Act (including as that provision has effect in relation to Scotland by virtue of paragraph 3 of Schedule 8 to that Act) are to have effect as if modified accordingly.

(4) Sub-paragraph (3) is without prejudice to any provisions of the Schedules referred to in that sub-paragraph under which the registration of a club or miners' welfare institute may be cancelled.

(5) Where a permit under section 34 of the 1968 Act is granted in respect of amusement machine premises at any time on or after the date on which this Order comes into force, the permit is to cease to have effect at the end of 31st August 2007; and paragraph 18 of Schedule 9 to that Act is to have effect as if modified accordingly.

(6) Sub-paragraph (5) is without prejudice to the cancellation of any such permit under section 39 of the 1968 Act(16).

### **Gaming Act 1968: grant of licences under the 1968 Act on or after 1st September 2007**

9.—(1) This paragraph applies to an application for a licence under the 1968 Act which is not determined before 1st September 2007.

(2) A licence under the 1968 Act may only be granted on such an application if—

- (a) the applicant is applying under Part 8 of the 2005 Act for a premises licence in respect of the same or substantially the same premises as those in respect of which the licence under the 1968 Act has effect, and
- (b) he qualifies for the purposes of that application as the existing premises operator in relation to the premises because he is applying for the licence under the 1968 Act.

(3) Where a licence under the 1968 Act is granted in accordance with sub-paragraph (2)—

- (a) it is only to have effect for the purposes of Part 7 of this Schedule (which provides for the conversion of licences etc. under enactments to be repealed by the 2005 Act into premises licences under that Act), and
- (b) it is to cease to have effect when the application for a premises licence referred to in that sub-paragraph is determined or withdrawn.

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(13) Paragraph 52 of Schedule 2 was amended by the Gaming (Amendment) Act 1982 (c. 22), section 1 and Schedule 1, paragraph 11.

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

(15) Paragraph 17 of Schedule 2 was amended by the Gaming (Amendment) Act 1982, section 1 and Schedule 1, paragraph 14.

(16) Section 39 was amended by S.I. 1996/1359.

### **Gaming Act 1968: registrations under Part 2 or 3 after 1st September 2007**

**10.** Where a members' club, commercial club or miners' welfare institute<sup>(17)</sup> is registered under Part 2 or 3 of the 1968 Act on or after 1st September 2007—

- (a) the registration is only to have effect for the purposes of Part 9 of this Schedule (which provides for the conversion of club registrations under the 1968 Act into club gaming and machine permits under the 2005 Act), and
- (b) it is to cease to have effect on the date on which the information specified in, as the case may be, paragraph 79 or 87 of this Schedule is sent to the relevant licensing authority (within the meaning of that paragraph).

### **Gaming Act 1968: grant of permits under section 34 on or after 1st September 2007**

**11.**—(1) This paragraph applies to an application for a permit under section 34 of the 1968 Act in respect of amusement machine premises which is not determined before 1st September 2007.

(2) A permit under section 34 of the 1968 Act may only be granted on such an application if—

- (a) the applicant is applying for a premises licence under Part 8 of the 2005 Act, or a family entertainment centre gaming machine permit<sup>(18)</sup>, in respect of the same or substantially the same premises as those in respect of which the permit under section 34 of the 1968 Act has effect, and
- (b) he qualifies for the purposes of that application as the existing premises operator, or (as the case may be) the existing family entertainment centre operator, in relation to the premises because he is applying for the permit under section 34 of the 1968 Act.

(3) Where a permit under section 34 of the 1968 Act is granted in accordance with sub-paragraph (2)—

- (a) it is only to have effect for the purposes of, as the case may be—
  - (i) Part 7 of this Schedule (which provides for the conversion of licences and permits etc. under enactments to be repealed by the 2005 Act into premises licences under that Act), or
  - (ii) Part 10 of this Schedule (which provides for the conversion of permits under section 34 of the 1968 Act into family entertainment centre gaming machine permits); and
- (b) it is to cease to have effect when the application for a premises licence, or a family entertainment centre gaming machine permit, referred to in sub-paragraph (2) is determined or withdrawn.

### **Effect of references in the Gaming Act 1968 to the licensing authority on and after 1st September 2007**

**12.**—(1) In relation to any time on or after 1st September 2007 any reference in the 1968 Act to a licensing authority is—

- (a) in respect of a local justice area in England and Wales, to the licensing committee for that area established and constituted under paragraph 1 of Schedule 1 to the 1963 Act<sup>(19)</sup>; and
- (b) in respect of any area in Scotland, to the licensing board for that area constituted under section 1 of the Licensing (Scotland) Act 1976<sup>(20)</sup>.

<sup>(17)</sup> See sections 266 to 268 of the 2005 Act for definitions of “members' club”, “commercial club” and “miners' welfare institute”.

<sup>(18)</sup> See section 247(2) of the 2005 Act.

<sup>(19)</sup> Paragraph 1(a) of Schedule 1 to the 1963 Act was amended by the Courts Act 2003 (c. 39), Schedule 8, paragraph 115(1) and (2).

<sup>(20)</sup> 1976 c. 66.

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(2) Sub-paragraph (1)(a) is to apply irrespective of whether or not the licensing committee for a particular local justice area continues to be responsible under that Schedule for the grant or renewal of bookmaker's permits, betting agency permits and betting office licences in that area.

#### **Lotteries and Amusements Act 1976: restrictions on applications**

**13.**—(1) This paragraph and paragraphs 14 to 16 apply with respect to the grant of certificates, permits and registrations under the 1976 Act during the period beginning on the date on which this Order comes into force and ending on the date on which the repeal of that Act for all purposes takes effect.

(2) The Gambling Commission may grant an application under paragraph 1 of Schedule 2A to the 1976 Act<sup>(21)</sup> for a person to be registered under that Schedule as a lottery manager only where the application is made before 28th April 2007.

(3) An application under paragraph 4 of Schedule 3 to the 1976 Act for the grant of a permit under section 16 of that Act may be granted only where the application is made before 28th April 2007 and, in a case to which paragraph 16 applies, the condition referred to in sub-paragraph (2) of that paragraph is met.

#### **Lotteries and Amusements Act 1976: period for which registrations, certificates and permits are to have effect**

**14.**—(1) Where on or after the date on which this Order comes into force but before 1st September 2007—

- (a) a society is registered under Schedule 1 to the 1976 Act;
- (b) a society is registered under Schedule 1A to that Act<sup>(22)</sup>; or
- (c) a local authority scheme is registered under Schedule 2 to that Act,

the registration is to cease to have effect at the end of 31st August 2007.

(2) Sub-paragraph (1) is without prejudice to the revocation of any such registration under a provision of the relevant Schedule referred to in that sub-paragraph.

(3) Any lottery manager's certificate granted under Schedule 2A to the 1976 Act on or after the date on which this Order comes into force is to have effect until 31st August 2007 (unless revoked by the Gambling Commission before that date); and paragraph 5 of that Schedule is to have effect as if modified accordingly.

(4) Any permit under section 16 of the 1976 Act granted or renewed under Schedule 3 to that Act on or after the date on which this Order comes into force is to have effect until 31st August 2007 (unless cancelled before that date under section 17(2) of that Act); and paragraph 15 of that Schedule is to have effect as if modified accordingly.

#### **Lotteries and Amusements Act 1976: society and local authority scheme registrations taking effect on or after 1st September 2007**

**15.**—(1) Where a society or local authority scheme is registered on or after 1st September 2007 under, as the case may be, Schedule 1, 1A or 2 to the 1976 Act<sup>(23)</sup>—

<sup>(21)</sup> Schedule 2A was inserted by the National Lottery etc. Act 1993 (c. 39), section 50(2) and Schedule 9.

<sup>(22)</sup> Schedule 1A was inserted by the National Lottery etc. Act 1993, section 48(5) and Part 2 of Schedule 7.

<sup>(23)</sup> Schedule 1 to the 1976 Act was amended by the National Lottery etc. Act 1993 (c. 39), paragraphs 2 and 3 of Schedule 7, and Schedule 10; by the Local Government (Wales) Act 1994 (c. 19), paragraph 50(2) of Schedule 16; and by Local Government (Scotland) Act 1994 (c. 39), paragraph 104(3) of Schedule 13. Other amendments were made to Schedule 1 which are not relevant. Schedule 1A was inserted by the National Lottery etc. Act 1993, section 48(5) and Part 2 of Schedule 7. Schedule 2 was amended by the National Lottery etc. Act, paragraphs 1 to 10 of Schedule 8.

- (a) the registration is only to have effect for the purposes of Part 8 of this Schedule (which provides for the conversion of registrations under the 1976 Act into lottery operating licences and registrations under Part 5 of Schedule 11 to the 2005 Act); and
  - (b) it is to cease to have effect in accordance with the following provisions of this paragraph.
- (2) Where a society or local authority scheme is registered under Schedule 1A or 2 to the 1976 Act, the registration is to cease to have effect on the date on which a converted lottery operating licence (within the meaning of Part 8 of this Schedule) is issued to, as the case may be, the society or the local authority.
- (3) Where a society is registered under Schedule 1 to the 1976 Act, the registration is to cease to have effect on the date on which the society is registered under Part 5 of Schedule 11 to the 2005 Act in accordance with paragraph 74 of this Schedule.

### **Lotteries and Amusements Act 1976: grant of permits under section 16 on or after 1st September 2007**

- 16.**—(1) This paragraph applies to an application for a permit under section 16 of the 1976 Act which is not determined before 1st September 2007.
- (2) A permit under section 16 of the 1976 Act may only be granted on such an application if—
- (a) the applicant is applying for a prize gaming permit<sup>(24)</sup> in respect of the same or substantially the same premises as those in respect of which the permit under section 16 of the 1976 Act has effect, and
  - (b) he qualifies for the purposes of that application as an existing operator because he is applying for the permit under section 16 of the 1976 Act.
- (3) Where a permit under section 16 of the 1976 Act is granted in accordance with subparagraph (2)—
- (a) it is only to have effect for the purposes of Part 11 of this Schedule (which provides for the conversion of permits under section 16 of the 1976 Act into prize gaming permits), and the case may be—
  - (b) it is to have effect until the application for a premises licence referred to in that subparagraph is determined or withdrawn.

## **PART 3**

### **Continuation of certificates and permits issued under the Gaming Act 1968**

#### **Continuation of certificates and permits granted under section 27 of the Gaming Act 1968**

- 17.**—(1) This paragraph applies to a certificate or permit under section 27 of the 1968 Act (which makes provision as to the sale, supply and maintenance of machines to which Part 3 of that Act applies) which—
- (a) is in force immediately before 1st September 2007, or
  - (b) is granted or renewed on or after that date.
- (2) A certificate or permit to which this paragraph applies is referred to in this paragraph and in paragraphs 18 to 22 as a section 27 certificate or, as the case may be, a section 27 permit.
- (3) A section 27 certificate or permit is to have effect on and after 1st September 2007.

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(24) See section 289(2) of the 2005 Act.

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- (4) Where a section 27 certificate has effect in accordance with sub-paragraph (3)—
- (a) if it was issued for the purposes of subsection (1) of section 27 of the 1968 Act, its effect is to authorise the holder—
    - (i) to sell or supply a gaming machine or part of a gaming machine, or
    - (ii) to cause or permit another person to sell or supply a gaming machine or part of a gaming machine on his behalf;
  - (b) if it was issued for the purposes of subsection (5) of that section, its effect is to authorise the holder—
    - (i) to maintain or repair a gaming machine or part of a gaming machine, or
    - (ii) to cause or permit another person to maintain or repair a gaming machine or part of a gaming machine on his behalf;
  - (c) if it was issued for the purposes of both those subsections, its effect is to authorise the activities described in both paragraphs (a) and (b).
- (5) On and after 1st September 2007 a section 27 certificate is to have effect subject to any relevant operating licence conditions.
- (6) In sub-paragraph (5), the reference to relevant operating licence conditions is to—
- (a) any conditions for the time being specified by the Gambling Commission under section 75 of the 2005 Act in relation to gaming machine technical operating licences which apply to the activities authorised by the certificate, and
  - (b) any conditions attached to the certificate under paragraph 21(3).
- (7) Where a section 27 permit has effect on or after 1st September 2007—
- (a) if it was issued for the purposes of subsection (1) of section 27 of the 1968 Act, its effect is to authorise the holder—
    - (i) to sell or supply the gaming machine specified in the permit or a part of that machine, or
    - (ii) to cause or permit another person to sell or supply that gaming machine on his behalf;
  - (b) if it was issued under subsection (5) of that section, its effect is to authorise the holder—
    - (i) to maintain or repair the gaming machine specified in the permit or a part of that machine, or
    - (ii) to cause or permit another person to maintain that machine or a part of that machine on his behalf.

#### **Duration of section 27 certificates**

**18.**—(1) Subject to the following provisions of this paragraph, a section 27 certificate is to have effect—

- (a) where the application for the certificate is granted on or after 1st September 2007, for a period of 5 years beginning on the date on which the certificate is issued; or
- (b) in any other case, until the date on which, as the certificate had effect immediately before 1st September 2007, it was due to expire in accordance with paragraph 3 of Schedule 6 to the 1968 Act.

(2) Where the holder of a section 27 certificate applies for a gaming machine technical operating licence at least two months before the date on which the certificate is due to expire, the certificate is not to cease to have effect by virtue of sub-paragraph (1) before that application is finally determined or is withdrawn.

(3) A section 27 certificate is to cease to have effect before the date determined in accordance with sub-paragraph (1) if before that date the holder of the certificate is granted a gaming machine technical operating licence.

(4) Where sub-paragraph (3) applies, the certificate is to cease to have effect immediately before the gaming machine technical operating licence has effect.

(5) This paragraph is without prejudice to sections 113 to 115 and 119 of the 2005 Act (which provide respectively for the surrender, lapse, forfeiture and revocation of operating licences) as those sections have effect in relation to section 27 certificates by virtue of paragraphs 20 and 21.

#### **Duration of section 27 permits**

**19.**—(1) Subject to sub-paragraph (2), a section 27 permit is to have effect until the date on which, as it had effect immediately before 1st September 2007, the permit was due to expire.

(2) A section 27 permit is to cease to have effect if before that date the holder of the permit is granted a single-machine supply and maintenance permit under section 250 of the 2005 Act in respect of the gaming machine to which the section 27 permit relates.

(3) Where sub-paragraph (2) applies, the permit is to cease to have effect immediately before the permit under section 250 of the 2005 Act has effect.

#### **Application of the Gambling Act 2005 to section 27 certificates**

**20.**—(1) The 2005 Act is to apply to a section 27 certificate having effect on or after 1st September 2007 with the modifications specified in the following provisions of this paragraph and in paragraph 21.

(2) Section 33 (which makes it an offence to provide facilities for gambling without the appropriate authorisation) is to have effect as if it provided for subsection (1) of that section also not to apply to any activity by a person if—

- (a) he holds a section 27 certificate, or is acting as the servant or agent of any person who holds such a certificate,
- (b) the activity is authorised by the certificate, and
- (c) in carrying out the activity he complies with any relevant operating licence conditions.

(3) Sections 113 to 115 are to apply to section 27 certificates and the holders of such certificates as they apply to gaming machine technical operating licences and the holders of such licences.

(4) Section 243 (which makes it an offence to manufacture, supply, install etc. a gaming machine without the appropriate authorisation) is to have effect as if it provided for a person not to commit the offence under subsection (1) of that section if—

- (a) he holds a section 27 certificate or is acting as the servant or agent of any person who holds such a certificate, and
- (b) the activity is authorised by the certificate, and
- (c) in carrying out the activity he complies with any relevant operating licence conditions.

(5) Section 308 (which provides for the inspection of premises used by an operating licence holder) is to apply to section 27 certificates and the holders of such certificates as it applies to gaming machine technical operating licences and the holders of such licences with the modifications specified in sub-paragraph (7).

(6) In section 308, in relation to a section 27 certificate—

- (a) any reference to the licensed activities is to have effect as a reference to the activities authorised by the certificate, and

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- (b) in subsection (3), the reference to the terms and conditions of the operating licence is to have effect as a reference to any relevant operating licence conditions having effect in relation to the certificate.

(7) In this paragraph, “relevant operating licence conditions” has the meaning given by paragraph 17(6).

### **Application of review provisions to section 27 certificates**

**21.**—(1) Sections 116 to 122 of the 2005 Act (which make provision with respect to the review of operating licences) are to apply to section 27 certificates and the holders of such certificates as they apply to gaming machine technical operating licences and the holders of such licences, but with the modifications specified in the following provisions of this paragraph.

(2) In section 116 (scope of Gambling Commission’s powers to carry out a review)—

(a) in subsection (1)—

- (i) the reference to the licensed activities is to have effect as a reference to the activities authorised by the section 27 certificate; and
- (ii) the reference to ensuring compliance with conditions attached under section 75, 77 or 78 is to have effect as a reference to ensuring compliance with any relevant operating licence conditions; and

(b) in subsection (2)—

- (i) the reference to activities carried on otherwise than in accordance with a condition of the operating licence is to have effect as a reference to activities carried on otherwise than in accordance with any relevant operating licence conditions, and
- (ii) references to the licensed activities are to have effect as references to the activities authorised by the section 27 certificate.

(3) Following a review under either subsection (1) or (2) of section 116, the Gambling Commission may—

- (a) attach an additional condition to the certificate, or
- (b) remove or amend a condition attached under this sub-paragraph as a result of a previous review under either subsection.

(4) Subsection (1) of section 117 (regulatory powers of the Gambling Commission on a review) is to have effect—

- (a) as if paragraph (b) provided for the Gambling Commission to have power to attach an additional condition to the certificate under sub-paragraph (3) above,
- (b) as if paragraph (c) provided for the Gambling Commission to have power to remove or amend a condition attached to the certificate under that sub-paragraph, and
- (c) as if paragraph (d) were omitted.

(5) Section 118 (powers of Gambling Commission to suspend an operating licence following a review) is to have effect with the omission of subsection (3).

(6) Section 119 (powers of Gambling Commission to revoke an operating licence following a review) is to have effect with the omission of subsections (2) and (3).

(7) Section 120 (which specifies the conditions which are to apply if the Gambling Commission is to exercise its powers to suspend or revoke an operating licence) is to have effect with the omission of subsection (2) and in that section—

- (a) in subsection (1)(b), the reference to a condition of the licence having been breached is to have effect as a reference to a relevant operating licence condition having been breached; and



- (b) in subsections (1)(d) and (3), a reference to the licensed activities is to have effect as a reference to the activities authorised by the section 27 certificate.
- (8) In section 121 (which enables the Gambling Commission to impose financial penalties on operating licence holders) any reference (however expressed) to a breach of a condition of an operating licence is to have effect as a reference to a breach of a relevant operating licence condition.
- (9) In section 122 (which enables the Gambling Commission to require an operating licence holder to provide information)—
- (a) In subsections (1)(c) and (4)(b), a reference to the licensed activities is to have effect as a reference to the activities authorised by the section 27 certificate; and
- (b) In subsection (4)(a), the reference to activities carried on otherwise than in accordance with a condition of the operating licence is to have effect as a reference to activities carried on otherwise than in accordance with any relevant operating licence condition.
- (10) Section 141 of the 2005 Act (which provides for appeals to the Gambling Appeals Tribunal) is to have effect in relation to a section 27 certificate as if—
- (a) in subsections (6) to (8), references to the Gambling Commission taking action, or determining to take action, under section 117, 118 or 119 included references to the Gambling Commission taking action, or determining to take action, under any of those sections in relation to the certificate;
- (b) in subsection (9), the reference to the Gambling Commission giving notice of a penalty under section 121(4) included giving such a notice in relation to the certificate; and
- (c) references to a licensee in those subsections included a reference to the holder of the certificate.
- (11) In this paragraph, “relevant operating licence conditions” has the meaning given by paragraph 17(6).

#### **Application of the Gambling Act 2005 to section 27 permits**

**22.**—(1) The 2005 Act is to apply to a section 27 permit having effect on or after 1st September 2007 with the modifications specified in the following provisions of this paragraph.

(2) Subsection (1) of section 250 is to have effect as if the reference to a permit under that section included a reference to a section 27 permit.

(3) In section 243(1), the reference to section 250 is to have effect as a reference to that section as modified by sub-paragraph (2).

#### **Continuation of permits granted under section 34 of the Gaming Act 1968 in respect of alcohol licensed premises**

**23.**—(1) This paragraph applies to a permit under section 34 of the 1968 Act<sup>(25)</sup> (which makes provision with respect to the use for gaming of machines to which Part 3 of that Act applies) granted by the authority mentioned in sub-paragraph (a) or (c) of paragraph 1 of Schedule 9 to the 1968 Act<sup>(26)</sup> which—

- (a) is in force immediately before 1st September 2007, or
- (b) (if not so in force) is granted or renewed on or after that date.

(2) A permit to which this paragraph applies is referred to in this paragraph and in paragraphs 24 to 26 as an alcohol licensed premises gaming machine permit.

<sup>(25)</sup> Section 34 was amended by [S.I. 1996/1359](#) and [S.I. 2003/3275](#).

<sup>(26)</sup> Sub-paragraph (a) of paragraph 1 was amended by the Licensing Act 2003 ([c. 17](#)), Schedule 6, paragraphs 48 and 52(1) and (2). Sub-paragraph (c) of paragraph 1 was substituted by the Licensing (Scotland) Act 1976 ([c. 66](#)), section 133(3).

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(3) An alcohol licensed premises gaming machine permit is to have effect on and after 1st September 2007.

(4) Where an alcohol licensed premises gaming machine permit has effect in accordance with sub-paragraph (3), its effect is to authorise the holder to make available on the premises to which the permit relates a number of Category C or D gaming machines<sup>(27)</sup> equal to the number of AWP machines which the permit would have authorised him to make available under the 1968 Act.

(5) An alcohol licensed premises gaming machine permit is to be subject to the conditions that any gaming machine must—

- (a) be located on premises which contain a bar at which alcohol is served for consumption on the premises (without a requirement that alcohol is served only with food), and
- (b) be made available for use only at a time when (as the case may be)—
  - (i) alcohol may be supplied in reliance on the premises licence under Part 3 of the Licensing Act 2003<sup>(28)</sup>, or
  - (ii) alcohol may be sold for consumption on the premises in reliance on the relevant Scottish licence<sup>(29)</sup>.

(6) In this paragraph and in paragraph 27, “AWP machine” means a machine—

- (a) to which Part 3 of the 1968 Act applies,
- (b) which is used for gaming (within the meaning of that Act), and
- (c) which complies with the conditions specified in subsections (2), (3) and (5) of section 34 of that Act or those specified in subsections (5B) to (5C) of that section<sup>(30)</sup>.

### **Duration of alcohol licensed premises gaming machine permits**

**24.**—(1) Subject to the following provisions of this paragraph, an alcohol licensed premises gaming machine permit is to have effect until—

- (a) in a case falling within paragraph 23(1)(a), whichever is the earlier of—
  - (i) 31st August 2010, or
  - (ii) the date on which the permit, as it had effect immediately before 1st September 2007, was due to expire in accordance with paragraph 18 of Schedule 9 to the 1968 Act; or
- (b) in a case falling within paragraph 23(1)(b), for a period of 3 years beginning on the date on which the permit is granted or renewed.

(2) Where in a case falling within paragraph 23(1)(a)—

- (a) the permit has effect immediately before 1st September 2007 by virtue of paragraph 19 of Schedule 9 to the 1968 Act; and
- (b) the application under Schedule 9 to that Act for the renewal of the permit is granted on or after that date,

the permit is to have effect until 31st August 2010.

(3) Where the holder of a permit under section 34 of the 1968 Act granted by the authority mentioned in sub-paragraph (a) or (c) of paragraph 1 of Schedule 9 to the 1968 Act applies for a licensed premises gaming machine permit at least two months before the date on which the permit under section 34 of the 1968 Act is due to expire, the permit is not to cease to have effect by virtue

<sup>(27)</sup> See section 236 of the 2005 Act.

<sup>(28)</sup> 2003 (c. 17).

<sup>(29)</sup> See section 277 of the 2005 Act for the definition of “relevant Scottish licence” for the purposes of that Act.

<sup>(30)</sup> Subsections (5A) to (5E) were inserted by S.I. 1996/1359. Further provisions were inserted by S.I. 2003/3275.

of sub-paragraph (1) or (2) until the application for the licensed premises gaming machine permit is determined or is withdrawn.

(4) An alcohol licensed premises gaming machine permit is to cease to have effect before the date referred to in sub-paragraph (1) if before that date—

- (a) the holder of the permit is granted a licensed premises gaming machine permit; or
- (b) section 282 of the 2005 Act (which enables up to 2 Category C or D gaming machines to be made available in alcohol licensed premises) applies to the premises specified in the permit.

(5) Where sub-paragraph (4) applies, the permit is to cease to have effect immediately before the licensed premises gaming machine permit or section 282 of the 2005 Act has effect in relation to the premises specified in the permit.

(6) This paragraph is subject to paragraphs 25(8), 28(5) and 29(4) and (5).

### **Application of the Gambling Act 2005 to alcohol licensed premises gaming machine permits**

**25.**—(1) The 2005 Act is to apply to an alcohol licensed premises gaming machine permit having effect on or after 1st September 2007 with the modifications specified in the following provisions of this paragraph.

(2) Subsections (1), (3) and (4) of section 283 of the Act (which enables Category C and D gaming machines to be made available under the authority of a licensed premises gaming machine permit) are to have effect as if the reference to a licensed premises gaming machine permit included a reference to an alcohol licensed premises gaming machine permit.

(3) In sections 37(7)(e) and 242(1) (which make it an offence respectively to use premises for providing facilities for gambling and to make gaming machines available for use), the reference to section 283 is to have effect as a reference to that section as modified by sub-paragraph (2).

(4) The provisions of Schedule 13 to the 2005 Act (which relates to licensed premises gaming machine permits) specified in sub-paragraph (5) are to apply to an alcohol licensed premises gaming machine permit as they apply to a licensed premises gaming machine permit.

(5) The provisions of Schedule 13 referred to in sub-paragraph (4) are paragraphs 7(2), 8, 10 to 14, 16, 18 to 20 and 21 (as that last paragraph has effect for the purposes of appeals under sub-paragraph (1)(c) of that paragraph).

(6) In paragraphs 7(2), 11, 16, 18(4), 19(4) and (5), and 21(3) of Schedule 13, any reference to the licensing authority is to have effect as a reference to the licensing authority which in its capacity as a licensing authority under the Licensing Act 2003 granted the premises licence under Part 3 of the Licensing Act 2003 in respect of the premises to which the permit relates.

(7) Sub-paragraph (6) is subject to paragraph 26(4).

(8) Paragraph 12 of Schedule 13 is to have effect as if it provided for a permit to continue to have effect until the date determined in accordance with paragraph 24 above, unless and until it ceases to have effect before that time in accordance with any of the provisions of that Schedule specified in sub-paragraph (5).

### **Continuation of alcohol licensed premises gaming machine permits: application of the Gambling Act 2005 in relation to permits in Scotland**

**26.**—(1) Despite Schedule 13 to the 2005 Act not applying in relation to Scotland, the provisions of that Schedule specified in sub-paragraph (5) of paragraph 25 (other than paragraphs 19 and 20 of that Schedule) are to apply to alcohol licensed premises gaming machine permits issued in Scotland.

(2) The provisions of Schedule 13 to the 2005 Act referred to in sub-paragraph (1) are to apply to alcohol licensed premises gaming machine permits issued in Scotland with—

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- (a) the modification specified in sub-paragraph (8) of paragraph 25, and
  - (b) the modifications specified in sub-paragraphs (3) and (4) below.
- (3) In relation to alcohol licensed premises gaming machine permits issued in Scotland—
- (a) paragraph 13 of Schedule 13 is to have effect as if any reference to an on-premises alcohol licence was to a relevant Scottish licence<sup>(31)</sup>;
  - (b) paragraph 18(2)(c) of that Schedule is to have effect as if the reference to the High Court was a reference to the Court of Session; and
  - (c) paragraph 21 of that Schedule is to have effect as if—
    - (i) sub-paragraph (2)(a) referred to a sheriff within whose sheriffdom the premises to which the permit relates are wholly or partly situated;
    - (ii) sub-paragraph (2)(b) was omitted;
    - (iii) the reference in sub-paragraph (3) to the magistrates' court was to the sheriff; and
    - (iv) the reference in sub-paragraph (3) to costs was to expenses.
- (4) Any reference to the licensing authority in the provisions of Schedule 13 to the 2005 Act mentioned in paragraph 25(6) is to have effect as a reference to the licensing authority which in its capacity as a licensing board under the Licensing (Scotland) Act 1976<sup>(32)</sup> granted the relevant Scottish licence in respect of the premises to which the permit relates.

### **Conversion of permits under section 34 of the Gaming Act 1968 into licensed premises gaming machine permits**

- 27.—(1) This paragraph applies where—
- (a) the holder of a permit under section 34 of the 1968 Act granted by the authority mentioned in sub-paragraph (a) or (c) of paragraph 1 of Schedule 9 to the 1968 Act<sup>(33)</sup> applies for a licensed premises gaming machine permit;
  - (b) that permit authorises the holder to make available a number of gaming machines, being a number which is greater than two;
  - (c) that permit is due to expire in accordance with paragraph 24(1) or (2) on a date on or after 1st September 2007;
  - (d) the application for the licensed premises gaming machine permit is made at least two months before the date on which the permit under section 34 of the 1968 Act is due to expire in accordance with paragraph 24(1) or (2); and
  - (e) (where the applicant holds a premises licence under Licensing Act 2003<sup>(34)</sup> in respect of the premises to which the application relates) the application for the licensed premises gaming machine permit complies with sub-paragraphs (b), (c), and (e) of paragraph 2 of Schedule 13 to the 2005 Act.
- (2) In sub-paragraph (1)(b) the reference to gaming machines is—
- (a) in relation to any time before 1st September 2007, to AWP machines, and
  - (b) in relation to any time on or after that date, to Category C or D gaming machines.
- (3) Sub-paragraph (1) applies whether the application is made before, on or after 1st September 2007.

<sup>(31)</sup> See section 277 of the 2005 Act for the definition of “relevant Scottish licence”.

<sup>(32)</sup> 1976 c. 66.

<sup>(33)</sup> Sub-paragraph (a) of paragraph 1 was amended by the Licensing Act 2003 (c. 17), Schedule 6, paragraphs 48 and 52(1) and (2). Sub-paragraph (c) of paragraph 1 was substituted by the Licensing (Scotland) Act 1976 (c. 66), section 133(3).

<sup>(34)</sup> 2003 c. 17.

(4) If the application is in respect of a number of gaming machines which does not exceed the number of AWP machines or Category C or D gaming machines authorised by the permit under section 34 of the 1968 Act (referred to in this paragraph as “the authorised number”), the licensing authority must grant the application.

(5) If the application is in respect of a number of gaming machines which is greater than the authorised number, the licensing authority must grant the application in respect of a number of gaming machines which is no smaller than the authorised number.

(6) In a case to which sub-paragraph (5) applies, where the number of Category C gaming machines specified in the application does not exceed the authorised number, the licensing authority may not grant the application in respect of a smaller number of Category C gaming machines than that specified in the application.

(7) Where the application referred to in sub-paragraph (1) is made before 1st September 2007—

- (a) the licensing authority must not grant the application for the licensed premises gaming machine permit until that date, and
- (b) sub-paragraphs (4) to (6) are not to apply if the permit under section 34 of the 1968 Act ceases to have effect before 1st September 2007.

(8) Sub-paragraphs (4) to (6) also do not apply where, after the application for the licensed premises gaming machine permit has been made, the permit under section 34 of the 1968 Act is cancelled or forfeited under paragraph 16 or 18 of Schedule 13 to the 2005 Act (as those provisions have effect by virtue of paragraph 25(4) above).

(9) Where the premises to which the permit under section 34 of the 1968 Act relates are situated in England or Wales, sub-paragraphs (4) to (6) are to be subject to paragraph 6(1) of Schedule 13 to the 2005 Act (which prohibits the grant of a licensed premises gaming machine permit to a person who does not hold an on-premises alcohol licence).

### **Failure to make the application for a licensed premises gaming machine permit in the appropriate form or manner**

**28.**—(1) This paragraph applies to any application for a licensed premises gaming machine permit made to a licensing authority in England or Wales which meets the conditions in paragraphs (a) to (e) of paragraph 27(1) above, but does not comply with a requirement imposed under sub-paragraph (a) or (d) of paragraph 2 of Schedule 13 to the 2005 Act.

(2) Where the licensing authority give notice in writing to the applicant requesting him to do anything which is necessary for the purposes of complying with any such requirement, the licensing authority are to cease to be under a duty by virtue of paragraph 27(4) to (6) to grant the application, or to grant the application in respect of a specified number and type of gaming machines, until such time as the applicant 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 notice (such period not being less than 14 days from the date on which the notice is received).

(4) Sub-paragraph (5) applies where the applicant fails to comply with the notice within the period referred to in sub-paragraph (3).

(5) Where an alcohol licensed premises gaming machine permit has effect in respect of the premises to which the application relates—

- (a) paragraph 24(3) is not to apply to the permit, and
- (b) if the permit has effect by virtue of that provision, the permit is to lapse on the expiry of the period referred to in sub-paragraph (3).

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### **Applications for conversion of permits under section 34 of the Gaming Act 1968: provisions applying to Scotland**

**29.**—(1) This paragraph is only to have effect if on 1st June 2007 regulations under section 285(1) (b) of the 2005 Act are not in force setting out provisions which are to have effect in place of Schedule 13 to that Act in relation to an application for a licensed premises gaming machine permit where the applicant is the holder of a relevant Scottish licence<sup>(35)</sup>.

(2) Sub-paragraph (3) modifies the effect of paragraph 27 in relation to such an application where—

- (a) the person making the application holds a permit under section 34 of the 1968 Act in respect of the premises to which the application relates, and
- (b) that permit is due to expire in accordance with paragraph 24(1) on a date which is no more than 3 months after the date on which the provisions referred to in sub-paragraph (1) come into force.

(3) Paragraph (d) of paragraph 27(1) is to have effect as if it required the application for the licensed premises gaming machine permit to be made on or before whichever of the following dates is the later—

- (a) one month after the date on which the provisions referred to in paragraph (1) come into force, or
- (b) two months before the date on which the permit under section 34 of the 1968 Act is due to expire in accordance with paragraph 24(1).

(4) Where—

- (a) a permit under section 34 of the 1968 Act in respect of premises is held by a person who also holds a relevant Scottish licence in respect of the premises, and
- (b) that permit is due to expire in accordance with paragraph 24(1) on a date which is before the date referred to in sub-paragraph (3)(a),

then (subject to sub-paragraph (5)) paragraph 24(1) is to have effect as if it provided for the permit to continue in force until the date referred to in sub-paragraph (3)(a).

(5) Where in a case falling within sub-paragraph (4)—

- (a) the holder of the permit under section 34 of the 1968 Act applies for a licensed premises gaming machine permit, and
- (b) that application meets the conditions in paragraphs (a) to (e) of paragraph 27(1) (as modified by sub-paragraph (3)),

the permit under section 34 of the 1968 Act is not to cease to have effect by virtue of sub-paragraph (4) until the application for the licensed premises gaming machine permit is determined or is withdrawn.

### **Special provision with respect to alcohol licensed premises within tracks in England and Wales**

**30.**—(1) This paragraph applies where—

- (a) a person holds a permit under section 34 of the 1968 Act granted by the authority mentioned in sub-paragraph (a) or (c) of paragraph 1 of Schedule 9 to the 1968 Act, and
- (b) the premises to which that permit relates form part of a track, and are situated in England or Wales.

(2) Where—

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<sup>(35)</sup> See section 277 of the 2005 Act for the definition of “relevant Scottish licence”.

- (a) the holder of the permit applies for a licensed premises gaming machine permit, and
- (b) the application is one to which paragraph 27 applies,

Schedule 13 to the 2005 Act is to have effect in relation to that application as if paragraph 1(2) of that Schedule were omitted.

### **Continuation of other permits granted under section 34 of the Gaming Act 1968**

**31.**—(1) This paragraph applies to a permit under section 34 of the 1968 Act granted by the authority mentioned in paragraph 1(b) or (d) of Schedule 9 to that Act<sup>(36)</sup> in respect of non-amusement premises which—

- (a) is in force immediately before 1st September 2007, or
- (b) (if not so in force) is granted or renewed on or after that date.

(2) A permit to which this paragraph applies is referred to in this paragraph and in paragraphs 32 and 33 as a Category D gaming machine permit.

(3) A Category D gaming machine permit is to continue to have effect on and after 1st September 2007.

(4) Where a Category D gaming machine permit has effect in accordance with sub-paragraph (3), it is to authorise the holder to make available on the premises to which the permit relates a number of Category D gaming machines<sup>(37)</sup> equal to the number of lower value AWP machines which the permit would have authorised him to make available under the 1968 Act.

(5) A Category D gaming machine permit is to have effect until—

- (a) in a case falling within paragraph (a) of sub-paragraph (1), whichever is the earlier of 31st July 2009 or the relevant expiry date; or
- (b) in a case falling within paragraph (b) of that sub-paragraph, 31st July 2009.

(6) Sub-paragraph (5) is subject to paragraph 33(8).

(7) In this paragraph—

- (a) “lower value AWP machine” means a machine—
  - (i) to which Part 3 of the 1968 Act applies,
  - (ii) which is used for gaming (within the meaning of that Act), and
  - (iii) which complies with the conditions mentioned in subsection (1) of section 34 of that Act;
- (b) “non-amusement premises” means any premises other than amusement machine premises; and
- (c) “relevant expiry date”, in relation to a Category D gaming machine permit, means the date on which, as it had effect immediately before 1st September 2007, the permit was due to expire.

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<sup>(36)</sup> Sub-paragraph (b) of paragraph 1 was partially repealed by the Local Government Act 1972 (c. 70), Schedule 30. Sub-paragraph (d) of paragraph 1 was amended by the Local Government (Scotland) Act 1973 (c. 65), Schedule 24, paragraph 32, and by the Local Government etc. (Scotland) Act 1994 (c. 39), Schedule 13, paragraph 78(4).

<sup>(37)</sup> See section 236 of the 2005 Act.

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### **Continuation of Category D gaming machine permits: provision of information where permit issued in Scotland**

**32.**—(1) This paragraph applies to a Category D gaming machine permit which was granted in Scotland by the appropriate authority mentioned in paragraph 1(d) of Schedule 9 to the 1968 Act (being a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994<sup>(38)</sup>).

(2) The council which granted the permit must on the relevant date, or as soon as practicable after that date, provide the relevant licensing board with the information specified in sub-paragraph (3).

(3) The information to be provided is—

- (a) the name and address of the permit holder,
- (b) the premises to which the permit relates,
- (c) the date on which the permit was granted or last renewed, and
- (d) in a case falling within paragraph 31(1)(a), the date on which, as it had effect immediately before 1st September 2007, the permit was due to expire.

(4) In this paragraph—

- (a) a reference to the relevant date is to—
  - (i) 1st September 2007, or
  - (ii) in a case falling within paragraph 31(1)(b), the date on which the permit is granted; and
- (b) a reference to the relevant licensing board is to the licensing authority under the 2005 Act in whose area the premises to which the permit relates are situated.

### **Application of the Gambling Act 2005 to Category D gaming machine permits**

**33.**—(1) The 2005 Act is to apply to a Category D gaming machine permit on or after 1st September 2007 with the modifications specified in the following provisions of this paragraph.

(2) Subsection (1) of section 247 (which provides for Category D gaming machines to be made available under the authority of a family entertainment centre gaming machine permit) is to have effect as if the reference to a family entertainment centre gaming machine permit included a reference to a Category D gaming machine permit.

(3) In sections 37(7)(c) and 242(1) (which make it an offence respectively to use premises for providing facilities for gambling or to make gaming machines available for use), the reference to section 247 is to have effect as a reference to that section as modified by sub-paragraph (2).

(4) Section 309(2) (which provides for the inspection of premises in respect of which a family entertainment centre gaming machine permit has effect) is to have effect as if any reference to a family entertainment centre gaming machine permit included a reference to a Category D gaming machine permit.

(5) The provisions of Schedule 10 to the 2005 Act (which relates to family entertainment centre gaming machine permits) specified in sub-paragraph (6) are to apply to a Category D gaming machine permit as they apply to a family entertainment centre gaming machine permit.

(6) The provisions of Schedule 10 referred to in sub-paragraph (5) are paragraphs 11(2), 12(a), 13(1), 15 to 17, 19 to 21 and 22 (as that last paragraph has effect for the purposes of appeals under sub-paragraph (1)(c) of that paragraph).

(7) In paragraphs 11(2), 15(1), 16, 17(4) and 21 of Schedule 10 to the 2005 Act, any reference to the licensing authority is to have effect as a reference to the licensing authority in whose area the premises to which the permits relates are situated.

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(38) 1994 c. 39.



(8) Paragraph 12(a) of Schedule 10 to the 2005 Act is to have effect as if it provided for the permit to cease to have effect on the date determined in accordance with paragraph 31(5) above unless it ceases to have effect before that time in accordance with any of the provisions of that Schedule specified in sub-paragraph (6).

(9) Paragraph 13(1) of Schedule 10 to the 2005 Act is to have effect as if the reference to the premises specified under paragraph 11(1)(b) of that Schedule was a reference to the premises specified in the Category D gaming machine permit.

## PART 4

### Licences etc. granted under the Gambling Act 2005 before 1st September 2007

#### **Licences etc. issued under the Gambling Act 2005 before 1st September 2007**

**34.**—(1) Where a licence or permit is issued under the 2005 Act before 1st September 2007 (including where it is issued by virtue of a provision of this Schedule), it is not to take effect until that date.

(2) Sub-paragraph (1) is subject to paragraph 52 (which relates to personal licences issued before 1st September 2007).

#### **Operating licences issued before 1st September 2007**

**35.**—(1) Where an operating licence is issued before 1st September 2007, section 100(1) of the 2005 Act (which makes operating licences subject to an annual fee) is to have effect in relation to the licence as if it provided for the holder to pay—

- (a) a first annual fee to the Gambling Commission within the relevant period after 1st September 2007, and
- (b) an annual fee to the Commission before 1st September in each year following 2007.

(2) In sub-paragraph (1), the relevant period is a period equal in length to the period prescribed for the purposes of section 100(1)(a) of the 2005 Act (as that provision has effect in relation to operating licences issued on or after 1st September 2007).

#### **Premises licences issued before 1st September 2007**

**36.**—(1) Where a premises licence is issued before 1st September 2007, section 184(1) of the 2005 Act (which makes premises licences subject to an annual fee) is to have effect in relation to the licence as if it provided for the holder to pay—

- (a) a first annual fee to the licensing authority within the relevant period after 1st September 2007, and
- (b) an annual fee to the licensing authority before 1st September in each year following 2007.

(2) In sub-paragraph (1), the relevant period is a period equal in length to the period prescribed for the purposes of section 184(1)(a) of the 2005 Act (as that provision has effect in relation to premises licences issued on or after 1st September 2007).

#### **Club gaming and machine permits issued before 1st September 2007**

**37.**—(1) Where a club gaming or club machine permit is issued before 1st September 2007, paragraph 14(1) of Schedule 12 to the 2005 Act (which makes club gaming and machine permits subject to an annual fee) is to have effect in relation to the permit as if it provided for the holder to pay—

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- (a) a first annual fee to the issuing licensing authority within the relevant period after 1st September 2007, and
- (b) an annual fee to the issuing licensing authority before 1st September in each year following 2007.

(2) In sub-paragraph (1), the relevant period is a period equal in length to the period prescribed for the purposes of paragraph 14(1)(a) of Schedule 12 to the 2005 Act (as that provision has effect in relation to permits issued on or after 1st September 2007).

(3) Where a club gaming or club machine permit is issued before 1st September 2007, paragraph 17(1) of Schedule 12 to the 2005 Act (which provides for the duration of club gaming and machine permits) is to have effect in relation to the permit as if it provided for the permit to cease to have effect at the end of the period of ten years beginning on that date unless—

- (a) it ceases to have effect before that time in accordance with a provision of that Schedule, or
- (b) it is renewed in accordance with paragraph 24 of that Schedule.

### **Licensed premises gaming machine permits issued before 1st September 2007**

**38.**—(1) Where a licensed premises gaming machine permit is issued before 1st September 2007, paragraph 9(1) of Schedule 13 to the 2005 Act (which makes licensed premises gaming machine permits subject to an annual fee) is to have effect in relation to the permit as if it provided for the holder to pay—

- (a) a first annual fee to the issuing licensing authority within the relevant period after 1st September 2007, and
- (b) an annual fee to the issuing licensing authority before 1st September in each year following 2007.

(2) In sub-paragraph (1), the relevant period is a period equal in length to the period prescribed for the purposes of paragraph 9(1)(a) of Schedule 13 to the 2005 Act (as that provision has effect in relation to permits issued on or after 1st September 2007).

## **PART 5**

### **Advance applications for operating licences by existing operators**

#### **Meaning of existing operator**

**39.**—(1) This paragraph specifies the circumstances in which a person making an advance application for an operating licence is to be treated for the purposes of this Part as an existing operator.

(2) Where the advance application is for a remote or non-remote casino operating licence, a person is an existing operator if on the date on which the advance application is made—

- (a) he holds a certificate of consent issued under paragraph 4 of Schedule 2 to the 1968 Act<sup>(39)</sup> for the purposes of the grant of a casino licence; or
- (b) he is applying for such a certificate and the application has not been withdrawn or refused.

(3) Where the advance application is for a remote or non-remote casino operating licence, a person (referred to in this sub-paragraph as “the first person”) is also an existing operator if on the date on which the advance application is made—

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<sup>(39)</sup> Paragraph 4 of Schedule 2 to the 1968 Act was amended by the Gaming (Amendment) Act 1982 (c. 22), section 1 and paragraph 2 of Schedule 1, and by the Gaming Amendment Act 1990 (c. 26), section 1 and paragraph 7 of the Schedule to that Act.

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- (a) another person holds a certificate of consent issued under paragraph 56 of Schedule 2 to the 1968 Act<sup>(40)</sup>, and the certificate relates to the transfer to the first person of a casino licence; or
  - (b) that other person is applying for such a certificate and the application has not been withdrawn or refused.
- (4) Where the advance application is for a remote or non-remote bingo operating licence, a person is an existing operator if on the date on which the advance application is made—
- (a) he holds a certificate of consent issued under paragraph 4 of Schedule 2 to the 1968 Act for the purposes of the grant of a bingo club licence; or
  - (b) he is applying for such a certificate and the application has not been withdrawn or refused.
- (5) Where the advance application is for a remote or non-remote bingo operating licence, a person (referred to in this sub-paragraph as “the first person”) is also an existing operator if on the date on which the advance application is made—
- (a) another person holds a certificate of consent issued under paragraph 56 of Schedule 2 to the 1968 Act, and the certificate relates to the transfer to the first person of a bingo club licence; or
  - (b) that other person is applying for such a certificate and the application has not been withdrawn or refused.
- (6) Where the advance application is for a remote bingo operating licence, a person is also an existing operator if on the date on which the advance application is made—
- (a) he holds a multiple bingo certificate issued under the Schedule to the Gaming (Bingo) Act 1985<sup>(41)</sup>, or
  - (b) he is applying to the Gambling Commission for such a certificate and the application has not been withdrawn or refused.
- (7) Where the advance application is for a remote or non-remote general betting operating licence, a person is an existing operator if on the date on which the advance application is made—
- (a) he holds a bookmaker’s permit or a betting agency permit issued under Schedule 1 to the 1963 Act; or
  - (b) he is applying to the appropriate authority for such a permit, and the application (including any appeal) has not been withdrawn or finally determined.
- (8) Subject to sub-paragraph (9), where the advance application is for a remote or non-remote pool betting operating licence, a person is an existing operator if on the date on which the advance application is made—
- (a) he is registered as a pool promoter under Schedule 2 to the 1963 Act; or
  - (b) he is applying to be so registered, and the application (including any appeal) has not been withdrawn or finally determined.
- (9) Where the advance application is for a non-remote pool betting operating licence to authorise the provision of facilities for pool betting in connection with dog-racing, a person is an existing operator if on the date on which the advance application is made any of sub-paragraphs (10) to (12) applies.
- (10) This sub-paragraph applies where the applicant for the non-remote pool betting operating licence—
- (a) holds a track betting licence issued under that Schedule; or

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<sup>(40)</sup> Paragraph 56 of Schedule 2 to the 1968 Act was amended by the Gaming Amendment Act 1990, section 1 and paragraph 8 of the Schedule to that Act.

<sup>(41)</sup> 1985 c.35.

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- (b) he is applying to the appropriate authority for such a licence, and the application (including any appeal) has not been withdrawn or finally determined.
- (11) This sub-paragraph applies where—
- (a) another person who holds a track betting licence is applying for the transfer of that licence to the applicant for the non-remote pool betting operating licence, and
- (b) the application has not been finally determined.
- (12) This sub-paragraph applies where the applicant for the non-remote pool betting operating licence operates a totalisator under the written authority of the occupier of a track given under section 16(1) of the 1963 Act<sup>(42)</sup>.
- (13) Where the advance application is for a remote pool betting operating licence to authorise the provision of facilities for pool betting in connection with dog-racing, a person is an existing operator if on the date on which the advance application is made—
- (a) he holds a licence for an inter-track betting scheme granted under Schedule 5ZA to the 1963 Act<sup>(43)</sup>; or
- (b) he is applying for such a licence, and the application (including any appeal) has not been withdrawn or finally determined.
- (14) Where the advance application is for a gaming machine general operating licence in respect of an adult gaming centre or a family entertainment centre, a person is an existing operator if on the date on which the advance application is made—
- (a) he holds a permit under section 34 of the 1968 Act—
- (i) granted by one of the authorities mentioned in paragraph 1(b) or (d) of Schedule 9 to that Act<sup>(44)</sup> in respect of amusement machine premises; and
- (ii) which is expressed to be granted for the purposes of subsection (5E) of that section<sup>(45)</sup>; or
- (b) he is applying to the appropriate authority for such a permit, and the application (including any appeal) has not been withdrawn or finally determined.
- (15) Where the advance application is for a remote or non-remote lottery operating licence of the kind described in section 98(2)(c) of the 2005 Act (a lottery manager’s operating licence), a person is an existing operator if on the date on which the advance application is made—
- (a) he holds a lottery manager’s certificate granted under Schedule 2A to the 1976 Act<sup>(46)</sup>; or
- (b) he is applying for such a certificate, and the application has not been withdrawn or finally determined.

### Interim operating licences

- 40.**—(1) This paragraph applies where—
- (a) an advance application for an operating licence is made by a person who is an existing operator in respect of one or more of the kinds of operating licence to which the application relates;
- (b) the application is made before 28th April 2007; and

<sup>(42)</sup> Schedule 5ZA was inserted by [S.I. 1995/3231](#).

<sup>(43)</sup> Section 16 was amended by the Betting, Gaming and Lotteries (Amendment) Act 1985 (c. 18), section 2(2) and the Schedule to that Act, and by [S.I. 1995/3231](#).

<sup>(44)</sup> Sub-paragraph (b) of paragraph 1 was partially repealed by the Local Government Act 1972 (c. 70), Schedule 30. Sub-paragraph (d) of paragraph 1 was amended by the Local Government (Scotland) Act 1973 (c. 65), Schedule 24, paragraph 32, and by the Local Government etc. (Scotland) Act 1994 (c. 39), Schedule 13, paragraph 78(4).

<sup>(45)</sup> Subsection (5E) was inserted by [S.I. 1996/1359](#).

<sup>(46)</sup> Schedule 2A was inserted by the National Lottery etc. Act 1993 (c. 39), section 50(2) and Schedule 9.

- (c) the application complies with section 69(2)(g) and (3) of the 2005 Act.
- (2) This paragraph also applies where—
  - (a) a person makes an advance application for an operating licence and the application is for, or includes an application for—
    - (i) a betting intermediary operating licence,
    - (ii) a gaming machine technical operating licence where the activity specified in the application is restricted to the manufacture of gaming machines or parts of gaming machines,
    - (iii) a gaming machine technical operating licence where the activities specified in the application are restricted to the installation, adaptation, maintenance or repair of gaming machines or parts of gaming machines otherwise than for valuable consideration, or
    - (iv) a gambling software operating licence;
  - (b) the application is made before 28th April 2007; and
  - (c) the application complies with section 69(2)(g) and (3) of the 2005 Act.
- (3) The Gambling Commission must determine any such application within a period of four months beginning on the date on which the application is made.
- (4) If the application is not finally determined within the period referred to in sub-paragraph (3), the applicant is to be treated, from the day immediately following that period until such time as the application is finally determined, as if he had been issued with an operating licence of the same description as that being applied for.
- (5) Where—
  - (a) the application is for an operating licence of more than one of the kinds described in section 65(2) of the 2005 Act, and
  - (b) the applicant is an existing operator in respect of one or more, but not all, of the kinds of licence for which the application is made,sub-paragraph (4) only has effect to provide for the grant of an operating licence of those kinds in respect of which the applicant is an existing operator.
- (6) For the purposes of sub-paragraph (5), a person who makes an application to which sub-paragraph (2) applies is to be treated as an existing operator in relation to any part of the application falling within sub-paragraphs (i) to (iii) of paragraph (a) of that sub-paragraph.
- (7) An operating licence granted by virtue of sub-paragraph (4) is referred to in this Schedule as an interim operating licence.
- (8) Sub-paragraphs (3) and (4) are not to apply where a permit, registration or certificate, by virtue of which a person making an application for an operating licence qualifies as an existing operator, is revoked or cancelled before the end of the period referred to in sub-paragraph (3).
- (9) Where such a permit, registration or certificate is revoked or cancelled after the end of that period but before the application for the operating licence is determined, any interim operating licence deemed to have been issued to the applicant by virtue of sub-paragraph (4) is to lapse.
- (10) For the purposes of sub-paragraphs (8) and (9), a permit or registration is not to be treated as being revoked or cancelled until any period for appealing against that decision has elapsed; and, if an appeal is made, it is not to be treated as being revoked or cancelled unless and until the appeal is dismissed or abandoned.
- (11) Sub-paragraphs (8) and (9) are subject to sub-paragraphs (12) and (13).
- (12) Where in a case to which sub-paragraph (8) or (9) applies—

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- (a) the application is for an operating licence of more than one of the kinds described in section 65(2) of the 2005 Act, and
- (b) the applicant is an existing operator in respect of more than one of the kinds of operating licence to which the application relates,

sub-paragraphs (8) and (9) are not to apply to the application, or any interim operating licence issued on the application, to the extent that the application is for a kind of operating licence where the applicant qualifies as an existing operator otherwise than by virtue of the permit, registration or certificate referred to in sub-paragraph (8).

(13) Sub-paragraphs (8) and (9) are not to apply where, notwithstanding the revocation or cancellation of a permit or certificate, the person making the application for an operating licence qualifies as an existing operator by reason of holding the same kind of permit or certificate in respect of different premises.

### **Modifications where the applicant qualifies as an existing operator because he is applying for a permission under the existing legislation**

**41.**—(1) This paragraph applies where a person qualifies as an existing operator in relation to a particular kind of operating licence only by reason of the fact that—

- (a) on the date on which the application for an operating licence is made—
  - (i) he is applying to the Gambling Commission for a certificate of consent for the grant of a casino or bingo club licence, or
  - (ii) another person is applying under paragraph 56 of Schedule 2 to the 1968 Act for a certificate of consent to the transfer of a casino or bingo club licence to him;
- (b) on that date he is applying to the Gambling Commission for a lottery manager’s certificate under Schedule 2A to the 1976 Act;
- (c) on that date he is applying to the Gambling Commission for a multiple bingo certificate under the Schedule to the Gaming (Bingo) Act 1985;
- (d) on that date he is applying for—
  - (i) a bookmaker’s or betting agency permit under the 1963 Act,
  - (ii) registration as a pool promoter under the 1963 Act, or
  - (iii) a permit under section 34 of the 1968 Act; or
- (e) on that date—
  - (i) he is applying under Schedule 3 to the 1963 Act for a track betting licence, or
  - (ii) another person is applying for the transfer of such a licence to him.

(2) Sub-paragraphs (3) and (4) of paragraph 40 are not to apply where the application referred to in sub-paragraph (1) (“the application under the existing legislation”) is withdrawn or refused before the end of the period referred to in sub-paragraph (3) of that paragraph.

(3) Where, in any other case, the application under the existing legislation is withdrawn or refused before 1st September 2007, or is not determined by that date, any interim operating licence deemed to have been granted to the applicant by virtue of sub-paragraph (4) is to lapse.

(4) Sub-paragraphs (5) and (6) apply in relation to any application for an operating licence falling within paragraph (d) or (e) of sub-paragraph (1).

(5) The applicant must notify the Gambling Commission in writing if the application under the existing legislation is granted, and the notification must be given before the end of the period of 14 days beginning on the day on which the application is granted.

(6) Where the applicant fails to notify the Gambling Commission within the period specified in sub-paragraph (5), paragraph 40(4) is to cease to apply in relation to the application for the operating licence after the end of that period.

### **Application of the Gambling Act 2005 to interim operating licences**

**42.**—(1) Section 74(2) of the 2005 Act (which requires the Gambling Commission to notify the applicant and issue the operating licence as soon as reasonably practicable after its grant) is not to have effect in relation to an interim operating licence.

(2) In exercising its powers under section 75 of the 2005 Act (powers of Gambling Commission to impose general conditions on operating licences), the Gambling Commission must specify any conditions which are to apply to an interim operating licence or an interim operating licence falling within a specified class.

(3) Where an interim operating licence has effect before the date on which the Commission publish in accordance with section 76(3) of the 2005 Act the specification of any condition which applies to the licence, the licence is to be subject to the condition on and after that date.

(4) Where an interim operating licence has effect on or after the date on which the Commission so publish the specification of any condition which applies to the licence, the licence is to be subject to the condition as soon as it has effect.

(5) Regulations under section 78 of the 2005 Act (which allows conditions to be imposed on operating licences by the Secretary of State) may specify conditions which are to apply to each interim operating licence or to interim operating licences falling within a specified description.

(6) In subsection (2) of section 78 of the 2005 Act, the reference to licences issued before regulations under that section are made is to include a reference to interim operating licences having effect before such regulations are made.

(7) The following provisions of the 2005 Act are not to apply to interim operating licences—

- (a) section 100 (which provides for the payment of an annual fee by the holder of an operating licence);
- (b) sections 104 to 107 (which make provision respectively for applications to vary operating licences, amendments to licences, registration of licences, copies of licences and production of licences); and
- (c) section 111 (which provides for the Gambling Commission to have power to limit the duration of operating licences) and section 112 (which makes provision about the renewal of operating licences).

(8) Section 110 (which provides for the duration of operating licences) is to have effect in relation to an interim operating licence as if it provided for the licence to cease to have effect when the advance application made by the existing operator is finally determined, unless and until it ceases to have effect before that date in accordance with section 113, 114, 115, 118 or 119 of the 2005 Act (which provide respectively for the surrender, lapse, forfeiture, suspension and revocation of operating licences).

### **Premises restriction applying to certain dog racing interim pool betting operating licences**

**43.**—(1) This paragraph applies where—

- (a) a person holds a non-remote interim pool betting operating licence which authorises the provision of facilities for pool betting in connection with dog-racing, and
- (b) he holds that licence by reason of the fact that, on the date on which he made the advance application for the relevant operating licence, he was authorised in writing under section 16 of the 1963 Act by the occupier of a track to operate a totalisator on the track.

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(2) Subject to the following provisions of this paragraph, section 84 of the 2005 Act (which makes provision about the conditions attached to operating licences about the provision of the licensed activities on specified premises) is to have effect in relation to the interim operating licence as if it provided for the licence to have effect subject to a condition requiring the holder to carry on the activities authorised by the licence only at the track referred to in sub-paragraph (1)(b).

(3) Sub-paragraph (4) applies where, on the date on which the holder of the interim operating licence made the advance application for the relevant operating licence, he was authorised under section 16 of the 1963 Act to operate a totalisator at more than one track.

(4) Where this sub-paragraph applies, section 84 of the 2005 Act is to have effect in relation to the interim operating licence as if it provided for the licence to have effect subject to a condition requiring the holder to carrying on the activities authorised by the licence only at those tracks where he was authorised under section 16 of the 1963 Act to operate a totalisator on the date on which he made the advance application for the relevant operating licence.

## PART 6

### Transitional arrangements with respect to personal licences

#### Interpretation of Part 6

44. Any reference in this Part of this Schedule to a provision of Part 5 of the 2005 Act is to have effect as a reference to that provision as applied by section 128 of that Act.

#### Continuation of certificates under section 19 of the Gaming Act 1968 on and after 1st September 2007

45.—(1) This paragraph applies to a certificate issued under section 19 of the 1968 Act (which provides for persons exercising specified functions on premises licensed under that Act to be approved by the Gambling Commission) which—

- (a) is in force immediately before 1st September 2007, or
- (b) is granted on or after that date.

(2) A certificate to which this paragraph applies is referred to in this Part as a section 19 certificate.

(3) A section 19 certificate is to have effect on and after 1st September 2007.

(4) Subject to sub-paragraphs (5) and (6), where a section 19 certificate has effect in accordance with sub-paragraph (3), its effect is to authorise the person to whom it was issued, in connection with the provision of facilities for gambling in reliance on a non-remote casino or bingo operating licence—

- (a) to perform the functions specified in the certificate on the premises so specified, or
- (b) to perform any functions reasonably necessary for the purposes of acting in the capacity specified in the certificate in relation to the premises so specified.

(5) Sub-paragraph (6) applies to any certificate under section 19 of the 1968 Act where the holder of the certificate applies (whether before, on or after 1st September 2007) for a personal licence to authorise the performance of functions which include the functions authorised by the certificate.

(6) The section 19 certificate is to have effect on and after—

- (a) 1st September 2007, or
- (b) if the application referred to in paragraph (5) is granted after that date, the date on which the application is granted,



as if it authorised the holder to perform the functions referred to in the certificate in or in relation to any premises in respect of which, as the case may be, a casino or bingo premises licence has effect (and not only in or in relation to the premises specified in the certificate).

(7) On and after 1st September 2007 a section 19 certificate is to have effect subject to any relevant personal licence conditions.

(8) In sub-paragraph (7), references to relevant personal licence conditions in relation to a section 19 certificate are to—

- (a) any conditions in relation to personal licences—
  - (i) for the time being specified by the Gambling Commission under section 75 of the 2005 Act, or
  - (ii) for the time being specified by the Secretary of State in regulations under section 78 of that Act,and which apply to the performance of the functions authorised by the certificate; and
- (b) any conditions attached to the certificate by virtue of paragraph 48(3).

#### **Duration of section 19 certificates**

**46.**—(1) Subject to the following provisions of this paragraph, a section 19 certificate is to have effect until 31st December 2009.

(2) Where—

- (a) the holder of a section 19 certificate applies for a personal licence to authorise the performance of functions which include the functions authorised by the certificate, and
- (b) that application is made before 31st August 2009,

the certificate is not to cease to have effect by virtue of paragraph (1) before the application is finally determined or is withdrawn.

(3) A section 19 certificate is to cease to have effect before 31st December 2009 if it ceases to have effect in accordance with—

- (a) section 113, 114, 115, 118 or 119 of the 2005 Act (which, as applied by section 128, provide respectively for the surrender, lapse, forfeiture, suspension and revocation of personal licences), or
- (b) sub-paragraphs (4) and (5).

(4) A section 19 certificate is to cease to have effect if the person to whom it was issued is granted a personal licence authorising the performance of functions which include all the functions authorised by the certificate.

(5) Where sub-paragraph (4) applies, the certificate is to cease to have effect immediately before the personal licence has effect.

#### **Application of the Gambling Act 2005 to section 19 certificates**

**47.**—(1) This paragraph applies where an operating licence is subject to a condition that a specified function is to be performed—

- (a) by an individual who holds a personal licence authorising the performance of that function, and
- (b) in accordance with the terms and conditions of the personal licence.

(2) The condition referred to in sub-paragraph (1) is to be treated as having been complied with if—

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- (a) the function is performed by an individual who holds a section 19 certificate authorising the performance of the function, and
  - (b) it is performed in accordance with any relevant personal licence conditions having effect in relation to the certificate.
- (3) The following provisions of the 2005 Act are to have effect in relation to a section 19 certificate as if any reference in those provisions to a personal licence included a reference to the certificate—
- (a) in Part 5, section 107 (which enables the Gambling Commission to issue copies of personal licences where lost, stolen or damaged), 113, 114 and 115, and
  - (b) in Part 6—
    - (i) section 134 (which requires a personal licence holder to produce the licence to a constable or enforcement officer),
    - (ii) section 138 (which specifies actions to be taken by an operating licence holder where the holder of a personal licence is convicted of a relevant offence), and
    - (iii) section 139 (which makes it an offence for the holder of a personal licence to act outside the terms and conditions of his licence in relation to activities authorised by an operating licence).
- (4) In this paragraph, “relevant personal licence conditions” has the meaning given by paragraph 45(8).

#### **Application of review provisions to section 19 certificates**

**48.**—(1) Sections 116 to 122 of the 2005 Act (which make provision with respect to the review of operating licences) are to apply to section 19 certificates and the persons to whom such certificates are issued as they apply to personal licences and the holders of such licences, but with the modifications specified in the following provisions of this paragraph.

(2) In section 116(2) (scope of Gambling Commission’s powers to carry out a review) the reference to a condition of the personal licence is to have effect as a reference to any relevant personal licence conditions having effect in relation to the section 19 certificate.

(3) Following a review under subsection (2) of section 116, the Gambling Commission may—

- (a) attach an additional condition to the certificate, or
- (b) remove or amend a condition attached under this paragraph as a result of a previous review under that subsection

(4) Section 117(1) (regulatory powers of the Gambling Commission on a review) is to have effect—

- (a) as if paragraph (b) provided for the Gambling Commission to have power to attach an additional condition to the certificate under sub-paragraph (3) above,
- (b) as if paragraph (c) provided for the Gambling Commission to have power to remove or amend a condition attached to the certificate under that sub-paragraph, and
- (c) as if paragraph (d) were omitted.

(5) Section 118 (powers of Gambling Commission to suspend a personal licence following a review) is to have effect with the omission of subsection (3).

(6) Section 119 (powers of Gambling Commission to revoke a personal licence following a review) is to have effect with the omission of subsections (2) and (3).

(7) Section 120 (which specifies the conditions which are to apply if the Gambling Commission is to exercise its powers to suspend or revoke a personal licence) is to have effect with the omission of subsection (2), and in that section—

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- (a) in subsection (1)(b), the reference to a condition of the licence having been breached is to have effect as a reference to a relevant personal licence condition having been breached; and
  - (b) in subsection (3), the reference to carrying on the licensed activities is to have effect as a reference to performing the functions to which the section 19 certificate relates.
- (8) In section 121 (which enables the Gambling Commission to impose financial penalties on personal licence holders) any reference (however expressed) to a breach of a condition of a personal licence is to have effect as a reference to a breach of a relevant personal licence condition.
- (9) In section 122 (which enables the Gambling Commission to require a personal licence holder to provide information)—
- (a) in subsection (1)(c), the reference to the licensed activities is to have effect as a reference to the performance of the functions to which the section 19 certificate relates;
  - (b) in subsection (4)—
    - (i) in paragraph (a), the reference to a condition of the personal licence is to have effect as a reference to any relevant personal licence conditions; and
    - (ii) in paragraph (b), reference to carrying on the licensed activities is to have effect as a reference to performing the functions to which the section 19 certificate relates.
- (10) Section 141 of the 2005 Act (which provides for appeals to the Gambling Appeals Tribunal) is to have effect in relation to a section 19 certificate as if—
- (a) in subsections (6) to (8), references to the Gambling Commission taking action, or determining to take action, under section 117, 118 or 119, included references to the Gambling Commission taking action, or determining to take action, under any of those sections in relation to the certificate;
  - (b) in subsection (9), the reference to the Gambling Commission giving notice of a penalty under section 121(4) included giving such a notice in relation to the certificate; and
  - (c) references to a licensee in those subsections included a reference to the holder of the certificate.
- (11) In this paragraph, “relevant personal licence conditions” has the meaning given by paragraph 45(8).

### **Interim personal licences**

**49.**—(1) This paragraph applies to—

- (a) an advance application for a personal licence authorising the performance of the functions of a specified management office; or
- (b) an advance application for a personal licence authorising the performance of a relevant operational function, where the application is made by a person who holds a section 19 certificate.

(2) Where the application—

- (a) is made before 30th June 2007, and
- (b) complies with the requirements of section 69(2)(g) and (3) of the 2005 Act,

the Gambling Commission must determine the application and inform the applicant of its decision before the end of the period of two months beginning on the day after the day on which the application is made.

(3) Where the application is not finally determined before the end of the period referred to in sub-paragraph (2), the Gambling Commission is to be treated as having issued to the applicant on

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the day immediately following the end of that period a personal licence of the same description as that being applied for.

(4) Where the application is for a multiple licence which authorises the performance of more than one function, sub-paragraph (2) is to have effect as if it provided for the Gambling Commission to be treated as having issued a personal licence which—

- (a) in a case falling within sub-paragraph (1)(a), authorises the performance of the functions of any management office specified in the application;
- (b) in a case falling within sub-paragraph (1)(b), authorises the performance of any relevant operational functions specified in the application, or
- (c) in a case falling within both paragraphs (a) and (b) of sub-paragraph (1), authorises the performance of the functions of any management office and any relevant operational functions specified in the application.

(5) A personal licence deemed to have been granted by virtue of sub-paragraph (3) is referred to in this Part as an interim personal licence.

(6) In this paragraph—

- (a) “management office” has the meaning given to it by section 80(5) of the 2005 Act,
- (b) “operational function” has the meaning given to it by section 80(6) of that Act, and
- (c) “relevant operational function” means an operational function—
  - (i) which is to be performed in premises in respect of which a casino or bingo premises licence has effect, and
  - (ii) which falls within any of the descriptions in subsection (2) of section 19 of the 1968 Act.

#### **Application of Part 5 of the Gambling Act 2005 to interim personal licences**

**50.**—(1) Part 5 of the 2005 Act (as applied by section 128 of that Act to personal licences) is to have effect in relation to interim personal licences subject to the modifications specified in the following provisions of this paragraph.

(2) In exercising its powers under section 75 (powers of Gambling Commission to impose general conditions on personal licences), the Gambling Commission must specify any conditions which are to apply to an interim personal licence or an interim personal licence falling within a specified class.

(3) Where an interim personal licence has effect before the date on which the Commission publish in accordance with section 76(3) the specification of any condition which applies to the licence, the licence is to be subject to the condition on and after that date.

(4) Where an interim personal licence has effect on or after the date on which the Commission so publish the specification of any condition which applies to the licence, the licence is to be subject to the condition as soon as it has effect.

(5) Regulations under section 78 (which allows the Secretary of State to make regulations specifying conditions to be imposed on operating licences) may specify conditions which are to apply to each interim personal licence or to interim personal licences falling within a specified description.

(6) In subsection (2) of section 78, the reference to licences issued before regulations under that section are made is to include a reference to interim personal licences having effect before such regulations are made.

(7) Part 5 of the 2005 Act is to have effect as if sections 104 to 106 (which make provision respectively for applications to vary personal licences, amendments to licences, registration of licences and copies of licences) were omitted.

### **Application of Part 6 of the Gambling Act 2005 to interim personal licences**

**51.**—(1) Part 6 of the 2005 Act is to have effect in relation to interim personal licences subject to the modifications specified in the following provisions of this paragraph.

(2) Section 131 (which provides for the duration of personal licences) is to have effect as if it provided for an interim personal licence to cease to have effect when the application referred to in paragraph 49(1) is finally determined, unless and until it ceases to have effect before that date in accordance with section 113, 114, 115, or 119 of the 2005 Act (which provide respectively for the surrender, lapse, forfeiture and revocation of operating licences).

(3) Part 6 is to have effect as if sections 132 and 134 (which make provision as to fees and the production of personal licences) were omitted.

### **Personal licences issued before 1st September 2007**

**52.**—(1) Subject to the following provisions of this paragraph, where a personal licence (including an interim personal licence) is issued under the 2005 Act before 1st September 2007, it is not to take effect until that date.

(2) Where a personal licence authorises a person to carry out one or more of the functions described in subsection (2) of section 19 on premises in respect of which a casino or bingo premises licence has effect, that person is to be treated for the purposes of subsection (1) of that section as if he had been issued with a certificate certifying that he has been approved by the Gambling Commission to perform the functions concerned on any premises in respect of which a licence under the 1968 Act has effect.

(3) Where a person is served with a notice under subsection (3) of section 19 of the 1968 Act, the person on whom the notice is served is to be treated for the purposes of subsection (4) of that section as having been approved by the Commission to act in the capacity for which the notice requires him to obtain approval if—

- (a) he has been granted a personal licence authorising the performance of the functions to which the notice relates, or
- (b) he has applied for such a licence and the application has not been finally determined.

(4) Where before 1st September 2007 the Gambling Commission revoke a personal licence to which sub-paragraph (2) or (3) applies in exercise of their powers under section 119 of the 2005 Act, the person who held the licence is to cease to be treated for the purposes of section 19(1) or (4) of the 1968 Act as having been approved to perform the functions whose performance had been authorised by the licence.

## **PART 7**

### **Conversion of licences etc. issued under enactments to be repealed into premises licences under the Gambling Act 2005**

#### **Existing premises operators**

**53.**—(1) This paragraph specifies the circumstances in which a person is to be treated for the purposes of this Part as the existing premises operator in relation to premises which are the subject of an application for a premises licence.

(2) Where the application is for a casino premises licence, a person is the existing premises operator in relation to the premises to which the application relates if—

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- (a) on the date on which the application is made he holds a casino licence in respect of the same or substantially the same premises; or
  - (b) on that date—
    - (i) he is applying for the grant of such a licence, and
    - (ii) the application (including any appeal) has not been finally determined or withdrawn.
- (3) Where the application is for a casino premises licence, a person is also to be treated as the existing premises operator in relation to the premises to which the application relates if on the date on which the application is made—
- (a) another person who holds a casino licence in respect of the same or substantially the same premises is applying for the transfer of that licence to him, and
  - (b) the application (including any appeal) has not been finally determined or withdrawn.
- (4) Where the application is for a bingo premises licence, a person is the existing premises operator in relation to the premises to which the application relates if—
- (a) on the date on which the application is made he holds a bingo club licence in respect of the same or substantially the same premises; or
  - (b) on that date—
    - (i) he is applying for the grant of such a licence, and
    - (ii) the application (including any appeal) has not been finally determined or withdrawn.
- (5) Where the application is for a bingo premises licence, a person is also to be treated as the existing premises operator in relation to the premises to which the application relates if on the date on which the application is made—
- (a) another person who holds a bingo club licence in respect of the same or substantially same premises is applying for the transfer of that licence to him, and
  - (b) the application (including any appeal) has not been finally determined or withdrawn.
- (6) Where the application is for a betting premises licence, a person is the existing premises operator in relation to the premises to which the application relates if—
- (a) on the date on which the application is made he is—
    - (i) the holder of a betting office licence issued under Schedule 1 to the 1963 Act in respect of the same or substantially the same premises,
    - (ii) the holder of a track betting licence issued under Schedule 3 to the 1963 Act in respect of the same or substantially the same premises, or
    - (iii) the holder of a certificate of approval issued under section 13 of that Act<sup>(47)</sup> (which provides for the approval of horse racecourses by the Levy Board), other than a point to point certificate, in respect of the same or substantially the same premises; or
  - (b) on that date—
    - (i) he is applying to the appropriate authority for the grant of such a licence or certificate, and
    - (ii) the application (including any appeal) has not been finally determined or withdrawn.
- (7) In sub-paragraph (6)(a)(iii), the reference to a point to point certificate is to a certificate issued under section 13 of the 1963 Act which is subject to the restriction that the premises to which it relates may only be used for the purposes of a horse racecourse on a limited number of days during a specified period of no more than 12 months.

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(47) Section 13 was amended by the Horserace Totalisator and Betting Levy Boards Act 1972 (c. 69), section 5(1). Amendments have also been made by the Horserace Betting and Olympic Lottery Act 2004, Schedule 4, paragraphs 1 and 2.

(8) Where the application is for a betting premises licence in respect of a track, a person is also to be treated as the existing operator in relation to the track if—

- (a) another person who holds a track betting licence in respect of the same or substantially same premises is applying for the transfer of that licence to him, and
- (b) the application has not been finally determined or withdrawn.

(9) Where the application is for an adult gaming centre premises licence or a family entertainment centre premises licence, a person is the existing premises operator in relation to the premises to which the application relates if on the date on which the application is made the conditions in sub-paragraph (10) or (11) are met.

(10) The conditions are that—

- (a) the person concerned holds a permit under section 34 of the 1968 Act (which makes provision with respect to the use of machines to which Part 3 of that Act applies for gaming) granted by one of the authorities mentioned in paragraph 1(b) or (d) of Schedule 9 to that Act<sup>(48)</sup>;
- (b) the permit relates to the same or substantially the same premises as those to which the application for the premises licence relates, and those premises are amusement machine premises; and
- (c) the permit is expressed to be granted for the purposes of section 34(5E) of that Act<sup>(49)</sup>.

(11) The conditions are that—

- (a) the person concerned is applying to the relevant authority referred to in paragraph (a) of sub-paragraph (10) for a permit of the description mentioned in paragraphs (b) and (c) of that sub-paragraph, and
- (b) the application (including any appeal) has not been finally determined or withdrawn.

### **Conversion of existing licences etc. into premises licences**

**54.**—(1) Subject to paragraphs 59(3) and 66(4)(b), this paragraph applies to an advance application for a premises licence where—

- (a) the person making the application is the existing operator in relation to the premises to which the application relates, and
- (b) the application complies with any conditions or requirements of subsections (1) to (5) and (6)(c) of section 159 of the 2005 Act (which specifies the conditions and requirements to be met by a person applying for a premises licence).

(2) An application to which this paragraph applies is referred to in this Part as a conversion application.

(3) Part 8 of the 2005 Act is to have effect in relation to the making and determination of a conversion application subject to the following provisions of this Part.

(4) Subject to paragraphs 55(2) and (3), 58(1), 59(4) and (5) and 60(2), the licensing authority must grant the application.

(5) Section 163(2) of the 2005 Act (which prohibits a licensing authority from determining an application for a premises licence if the applicant does not hold a relevant operating licence) is not to have effect in relation to a conversion application; but any licence issued on such an application

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<sup>(48)</sup> Sub-paragraph (b) of paragraph 1 was partially repealed by the Local Government Act 1972 (c. 70), Schedule 30. Sub-paragraph (d) of paragraph 1 was amended by the Local Government (Scotland) Act 1973 (c. 65), Schedule 24, paragraph 32, and by the Local Government etc. (Scotland) Act 1994 (c. 39), Schedule 13, paragraph 78(4).

<sup>(49)</sup> Subsection (5E) was inserted by S.I. 1996/1359.

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in accordance with sub-paragraph (4) is to lapse if the holder's application for a relevant operating licence is rejected when it is finally determined.

(6) In sub-paragraph (5) the reference to a relevant operating licence is to an operating licence which authorises the holder to carry on the activity to which the premises licence relates.

(7) Subject to sub-paragraph (8), section 206(2) of the 2005 Act (which provides for rights of appeal in connection with applications under Part 8 of that Act) is not to apply where an application is granted in pursuance of sub-paragraph (4).

(8) Sub-paragraph (7) is without prejudice to the right of—

- (a) the applicant, or
- (b) a person who made representations in relation to the application,

to appeal against any conditions attached by virtue of section 169(1) of the 2005 Act to a premises licence issued in pursuance of sub-paragraph (4).

### **Failure to make the application for a premises licence in the appropriate form or manner**

**55.**—(1) This paragraph applies to any application for a premises licence which—

- (a) is a conversion application, but
- (b) either—
  - (i) does not comply with a requirement imposed under paragraph (a) or (b) of section 159(6) of the 2005 Act, or
  - (ii) includes a plan of the proposed licensed premises which is incompatible with any conditions which would be attached to the premises licence by virtue of regulations under section 167 of the 2005 Act.

(2) Where—

- (a) the applicant has failed to comply with a requirement imposed under paragraph (a) or (b) of section 159(6) of the 2005 Act, and
- (b) the licensing authority give notice in writing to the applicant requesting him to do anything which is necessary for the purposes of complying with the requirement,

the licensing authority are to cease to be under a duty by virtue of paragraph 54(4) to grant the application until such time as the applicant complies with the request.

(3) Where the application includes a plan of the proposed licensed premises which is incompatible with any conditions which would be attached to the premises licence by virtue of regulations under section 167 of the 2005 Act, the licensing authority—

- (a) may not grant the application until such time as the applicant has submitted an amended plan which is compatible with the relevant conditions, and
- (b) must give the applicant notice in writing—
  - (i) indicating that the plan is incompatible with specified conditions to be attached to the premises licence, and
  - (ii) requesting the applicant to submit an amended plan which is compatible with those conditions.

(4) In the case of an application made before 28th July 2007, the applicant must comply with any request made under sub-paragraph (2) or (3) 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).

(5) If, in a case to which paragraph 62 applies, the applicant fails to comply with the request within the period specified in accordance with sub-paragraph (4)—

- (a) that paragraph is to cease to apply after the end of that period; and



- (b) where that period expires on or after 1st September 2007, the existing licence, permit or certificate (within the meaning of that paragraph) is to cease to have effect immediately following the expiry of that period.

#### **Non-fast track applications: modification of provisions of the Gambling Act 2005**

**56.**—(1) This paragraph applies to a conversion application which is accompanied by a request made by the applicant for the licensing authority to exercise its powers under section 169(1) of the 2005 Act to exclude, or vary in a specified manner, a condition which would otherwise be attached to the licence by virtue of regulations under section 168 of that Act (which provides for default conditions to be prescribed by regulations).

(2) In this Part any reference to a non-fast track application is to an application to which this paragraph applies.

(3) Section 169 of the 2005 Act is to have effect in relation to a premises licence issued on a non-fast track application subject to the following modifications.

(4) Subject to sub-paragraph (5), in issuing the premises licence the licensing authority may only exercise its powers under section 169(1) for the purposes of complying with the request referred to in sub-paragraph (1).

(5) Where the licensing authority exercises its powers under subsection (1) of section 169 for the purposes of complying with the request referred to in sub-paragraph (1), it may also exercise its powers under that subsection to attach one or more other conditions to the licence.

#### **Fast track applications: modification of provisions of the Gambling Act 2005**

**57.**—(1) This paragraph applies to a conversion application which is not a non-fast track application.

(2) In this Part any reference to a fast track application is to an application to which this paragraph applies.

(3) Part 8 of the 2005 Act is to have effect subject to the modifications specified below.

(4) Section 160(1) of the 2005 Act (which enables the Secretary of State by regulations to require applicants for premises licences to give notice of their applications) is to have effect as if the reference in that provision to an applicant for a premises licence did not include a person making a fast track application.

(5) Sections 161 and 162 of that Act (which respectively provide for representations to be made by persons with respect to premises licence applications, and specify the circumstances in which a hearing is to take place) are not to apply to fast track applications.

(6) The powers of the licensing authority under section 169(1) of the 2005 Act—

- (a) to attach conditions on issuing a premises licence, and
- (b) to exclude a condition that would otherwise be attached to the licence by virtue of regulations under section 168 of that Act,

are not to apply to a licence issued on a fast track application.

(7) A person may make either a fast-track or a non-fast track application, but not both in respect of the same premises; and, where a person submits both a fast-track and a non-fast track application, the licensing authority must reject the non-fast track application.

#### **Effect of revocation or cancellation of existing licence etc.**

**58.**—(1) Where—

- (a) a person makes a conversion application, and

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- (b) the licence, permit or certificate by virtue of which he qualifies as the existing premises operator in relation to the application (“the existing licence, permit or certificate”) is revoked or cancelled,

the licensing authority must reject the application.

(2) Where despite sub-paragraph (1) the licensing authority purport to grant the premises licence in respect of which the application is made, the licence is to be of no effect.

(3) Where the existing licence, permit or certificate is revoked or cancelled after the licensing authority has issued a premises licence in pursuance of paragraph 54(4), the premises licence is to lapse on the date on which the existing licence is revoked or cancelled.

(4) Where the existing licence is a casino licence or a bingo club licence, any reference in this paragraph to the licence being revoked is to include a reference to the licence ceasing to have effect by virtue of paragraph 35(6) of Schedule 2 to the 1968 Act<sup>(50)</sup> because the relevant certificate of consent issued under that Schedule has been revoked.

### **Conversion of existing licences etc. into premises licences: supplementary provisions**

**59.**—(1) This paragraph applies to an advance application for a premises licence made by a person who qualifies as the existing premises operator in relation to the premises because on the date on which the application is made an application is also being made for—

- (a) the grant of a betting office licence under the 1963 Act,
- (b) the grant or transfer of a track betting licence under that Act,
- (c) the grant of a certificate of approval under section 13 of that Act,
- (d) the grant or transfer of a casino licence under the 1968 Act,
- (e) the grant or transfer of a bingo club licence under that Act, or
- (f) the grant of a permit under section 34 of that Act in respect of amusement machine premises.

(2) Any reference in this Part to the application under the existing legislation (including any reference to the application for transfer under the existing legislation) is to the relevant application referred to in sub-paragraph (1).

(3) Where the applicant qualifies as the existing premises operator because on the date on which the application is made an application is also being made for the transfer to him of a track betting licence under the 1963 Act, a casino licence or a bingo club licence—

- (a) section 159 of the 2005 Act is to have effect in relation to the application for the premises licence as if subsection (5) were omitted, and
- (b) paragraph (b) of paragraph 54(1) is to have effect as if the reference in that paragraph to subsections (1) to (5) of that section did not include a reference to subsection (5).

(4) Where the application is a conversion application, sub-paragraph (4) of paragraph 54 is to be modified so that—

- (a) the licensing authority may not determine the application for the premises licence before being notified in writing by the applicant that the application under the existing legislation has been determined; and
- (b) the licensing authority are to be under a duty to grant the application for a premises licence only where the application under the existing legislation is granted and the applicant has sent them a copy of the relevant licence, permit or certificate.

<sup>(50)</sup> Paragraph 35 of Schedule 2 was amended by the Access to Justice Act 1999 (c. 22), Schedule 13, paragraphs 57 and 58(1) and (9).

(5) Where the application under the existing legislation is refused, the licensing authority must reject the application for the premises licence.

(6) Where despite the refusal of the application under the existing legislation the licensing authority purport to grant the premises licence, the licence is to be of no effect.

(7) Where, in a case to which paragraph 54 applies, the application under the existing legislation is granted before 1st September 2007, paragraph 58 is to apply to a licence, permit or certificate granted on such an application as it applies to the existing licence, permit or certificate in a case to which that paragraph applies.

### **Special provision where the application under the existing legislation is for the transfer of a licence**

**60.**—(1) This paragraph applies to a conversion application where—

- (a) the applicant qualifies as the existing premises operator for the purposes of the application by reason of the fact that on the date on which he makes the application he holds a casino licence, a bingo club licence or a track betting licence granted under Schedule 3 to the 1963 Act; and
- (b) the applicant is also applying to transfer the licence under the 1963 or 1968 Act to another person.

(2) Paragraph 54(4) is to be modified in relation to the application for the premises licence so that—

- (a) the licensing authority may not determine the application before being notified in writing by the applicant that the application for transfer under the existing legislation has been determined, and
- (b) the licensing authority—
  - (i) are to be under a duty to grant the application only where the application for transfer under the existing legislation is refused, and
  - (ii) must reject the application where the application for transfer under the existing legislation is granted.

(3) Where despite the grant of the application for transfer under the existing legislation the licensing authority purport to grant the premises licence to the applicant, the licence is to be of no effect.

### **Special provisions where the application for the premises licence and the application under the existing legislation are being made to the same authority**

**61.**—(1) Sub-paragraph (4) applies to a conversion application for an adult gaming centre premises licence or a family entertainment centre premises licence where—

- (a) the person making the application qualifies as the existing premises operator by reason of the fact that on the date on which he makes the application he is also applying for a permit under section 34 of the 1968 Act in respect of amusement machine premises, and
- (b) both the application for the premises licence and the application for the permit are being made to the same local authority in England or Wales.

(2) Sub-paragraph (4) also applies to any of the applications specified in sub-paragraph (3) where—

- (a) the person making the application qualifies as the existing premises operator by reason of the fact that on the date on which he makes the application he is also making an application of one of the types referred to in paragraph (a), (d) or (e) of paragraph 59(1), and

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- (b) both the application for the premises licence and the application under the 1963 Act or the 1968 Act are being made to the same licensing board in Scotland.
- (3) The applications referred to in sub-paragraph (2) are—
  - (a) a conversion application for a casino premises licence,
  - (b) a conversion application for a bingo premises licence, and
  - (c) a conversion application for a betting premises licence.
- (4) Where this sub-paragraph applies, paragraph 59 is to have effect as if in sub-paragraph (4)(b), the words “and the applicant has sent them a copy of the relevant licence, permit or certificate” were omitted.
- (5) Where in a case to which paragraph 60 applies—
  - (a) the person referred to in sub-paragraph (1)(a) of that paragraph is applying for a casino premises licence or a bingo premises licence and qualifies as an existing operator for the purposes of the application for the premises licence by reason of the fact that he holds a casino or bingo club licence, and
  - (b) both the application for the premises licence and the application for the transfer of the casino or bingo club licence are being made to the same licensing board in Scotland,that paragraph is to have effect as if in sub-paragraph (2)(a) the words “being notified in writing by the applicant that” were omitted.

#### **Continuation of existing licences, permits and certificates on and after 1st September 2007**

**62.**—(1) Subject to sub-paragraph (2) and paragraph 55(5), this paragraph and paragraphs 63 and 64 apply where—

- (a) a conversion application is made before 31st July 2007;
  - (b) the applicant is the holder immediately before 1st September 2007 of a licence, permit or certificate of one of the kinds described in paragraph 53 (referred to in this paragraph and in paragraphs 63 and 64 as “the existing licence, permit or certificate”); and—
    - (i) it is by virtue of that licence, certificate or permit that he qualifies as the existing premises operator for the purposes of the application, or
    - (ii) it is by virtue of an application for the grant or transfer of that licence, certificate or permit that he qualifies as the existing premises operator for the purposes of the application;
  - (c) the licensing authority are under a duty to grant the application by virtue of paragraph 54(4); and
  - (d) the licensing authority have not issued the premises licence to the applicant before 1st September 2007.
- (2) The existing licence, permit or certificate is to continue in force on and after 1st September 2007.
- (3) Sub-paragraph (2) is to apply whether or not the existing licence, permit or certificate was due to expire at the end of 31st August 2007.
- (4) Where the application for the premises licence is one to which paragraph 59 applies, sub-paragraph (2) is not to apply, or (as the case may be) is to cease to apply, to the existing licence, permit or certificate unless—
- (a) the applicant notifies the licensing authority in writing of the grant of the existing licence, permit or certificate before the end of the period of 14 days beginning on the day on which it is granted, and

- (b) provides the authority with a copy of the relevant licence, permit or certificate.
- (5) Sub-paragraph (4) does not apply where the application for the premises licence is one to which paragraph 61(4) applies.
- (6) On and after 1st September 2007—
  - (a) a casino licence is to have effect to authorise the licensed premises to be used for providing facilities for gambling as if it were a converted casino premises licence;
  - (b) a bingo club licence is to have effect to authorise the licensed premises to be used for providing facilities for gambling as if it were a bingo premises licence;
  - (c) a betting office licence under the 1963 Act, a track betting licence under that Act or a certificate of approval under section 13 of that Act is to have effect to authorise the premises to which the licence or certificate relates to be used for providing facilities for gambling as if it were a betting premises licence;
  - (d) a permit under section 34 of the 1968 Act is to have effect to authorise the premises to which the permit relates to be used for the purposes of providing facilities for gambling as if it were a relevant premises licence.
- (7) In sub-paragraph (6)(d) the reference to a relevant premises licence is to—
  - (a) an adult gaming centre premises licence, if the conversion application is for a adult gaming centre premises licence;
  - (b) a family entertainment centre premises licence, if the conversion application is for a family entertainment centre premises licence.
- (8) On and after 1st September 2007 the existing licence, permit or certificate is to have effect—
  - (a) subject to any relevant premises licence conditions, and
  - (b) until the premises licence which is being applied for has been issued or, in a case to which paragraph 60(2)(b)(ii) applies, until the application for transfer under the existing legislation is granted.
- (9) In sub-paragraph (8) and in paragraph 64, references to relevant premises licence conditions are to—
  - (a) any conditions which premises licences of the relevant kind are subject to by virtue of any provision of the 2005 Act (including any provision of that Act as modified by a provision of this Schedule),
  - (b) any conditions which premises licences of the relevant kind are subject to by virtue of regulations under section 167 of that Act,
  - (c) any default conditions, and
  - (d) any conditions attached to the existing licence, permit or certificate under paragraph 64(3).
- (10) In sub-paragraph (9)(c) and paragraph 64, references to default conditions are to any conditions prescribed in regulations under section 168 in relation to premises licences of the relevant kind.
- (11) Sub-paragraph (9)(c) is subject to paragraph 64(3)(a).

#### **Application of the Gambling Act 2005 to the existing licence, permit or certificate**

**63.—**(1) The 2005 Act is to apply to the existing licence, permit or certificate on or after 1st September 2007 with the modifications specified in the following provisions of this paragraph and in paragraph 64.

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(2) Section 37 (which makes it an offence to use premises for providing facilities for gambling) is to have effect as if it provided for subsection (1) of that section not to apply to the use of the premises to which the existing licence, permit or certificate relates by—

- (a) the person to whom the existing licence, permit or certificate was issued, or
- (b) a person acting in the course of a business carried on by the person referred to in paragraph (a),

if the use is authorised by the licence, permit or certificate.

(3) Where the premises concerned are a track, section 37 is to have effect as if it provided for subsection (1) of that section not to apply to the use of the track by a person for accepting bets if the use is authorised by the existing licence or certificate.

### **Application of review provisions to the existing licence, permit or certificate**

**64.**—(1) Sections 197 to 203 of the 2005 Act (which provide for the review of premises licences by licensing authorities) are to apply to the existing licence, permit or certificate and the holder of the existing licence, permit or certificate as they apply to premises licences and the holder of such licences, but with the modifications specified in sub-paragraphs (2) to (4).

(2) In subsection (2)(a) of section 200 (which specifies the circumstances in which a licensing authority may carry out a review), the reference to a condition of the licence is to have effect as a reference to any relevant premises licence conditions having effect in relation to the existing licence, permit or certificate.

(3) Following a review under section 201 (which specifies the procedure on a review), the licensing authority may—

- (a) exclude a default condition, or remove or amend an exclusion having effect by virtue of this sub-paragraph as a result of a previous review, or
- (b) attach a condition, or remove or amend a condition attached under this sub-paragraph as a result of a previous review.

(4) Subsection (1) of section 202 (which makes provision as to the action which may be taken following a review) is to have effect—

- (a) as if paragraph (c) provided for the licensing authority to have power to exclude a default condition, or remove or amend an exclusion having effect by virtue of sub-paragraph (3) (a) above, and
- (b) as if paragraph (d) provided for the licensing authority to have power to attach a condition to the existing licence, permit or certificate under sub-paragraph (3)(b) above.

(5) Section 206(3) of the 2005 Act (which makes provision for appeals against actions taken by licensing authorities on a review) is to have effect in relation to the existing licence, permit or certificate as if—

- (a) a reference to a licensing authority taking action under section 202 as a result of a review, or determining to take no action as a result of a review, included a reference to the licensing authority taking such action, or determining to take no such action, in relation to the existing licence, permit or certificate; and
- (b) the reference to the licensee included a reference to the holder of the existing licence, permit or certificate.

(6) Section 313(2) of the 2005 Act (which provides for the inspection of premises in respect of which a premises licence has effect) is to apply to the premises in respect of which the existing licence, permit or certificate has effect as it applies to premises in respect of which a premises licence has effect.

## **Application of the Gambling Act 2005 to casino premises licences granted on a conversion application**

- 65.—(1) This paragraph applies to—
- (a) a conversion application for a casino premises licence, and
  - (b) a casino premises licence issued on the grant of such an application in pursuance of paragraph 54(4).
- (2) This paragraph is without prejudice to paragraphs 54 to 61.
- (3) Part 8 of the 2005 Act is to have effect subject to the modifications specified in the following provisions of this paragraph.
- (4) Section 150(2) (which describes the kinds of casino premises licences) is not to apply to a casino premises licence to which this paragraph applies and instead such a licence is to be referred to as a converted casino premises licence.
- (5) A converted casino premises licence is a licence which states that it authorises premises to be used for the operation of a casino or for providing other facilities for gaming (apart from bingo); and section 150(1)(a) is to be modified accordingly.
- (6) Section 172 (which makes provision as to the effect of a premises licence in authorising the making available of gaming machines) is to be modified so as to provide for a converted casino premises licence to authorise the holder of the licence either—
- (a) to make 20 gaming machines available for use on the premises where at least one of the machines is of Category B and provided that each machine is of Category B, C or D<sup>(51)</sup>; or
  - (b) to make available for use on the premises any number of Category C or D gaming machines.
- (7) Section 174(1) (which makes provision as to the kinds of premises in respect of which a casino premises licence may be granted) is not to apply where the application is for a converted casino premises licence.
- (8) Section 174(2) (which provides for casino premises licences to authorise the holder to make available any number of games of chance other than casino games)—
- (a) is not to have effect to authorise the playing of bingo in premises in respect of which a converted casino premises licence has effect;
  - (b) is to have effect to authorise the holder of a converted casino premises licence to make available other games of chance which are not casino games, irrespective of whether or not casino games are also made available on the premises.
- (9) Section 174(3) (which provides for casino premises licences to authorise the holder to use the premises for the provision of bingo, betting or both) is not to apply to a converted casino premises licence to which this paragraph applies.
- (10) A converted casino premises licence is not to count for the purposes of any of the limits in section 175(1) to (3) (which limit the overall numbers of specified kinds of casino premises licences).
- (11) Subsections (5) and (7) of section 175 and Schedule 9 (which make provision about applications for casino premises licences) are not to apply to an application for a converted casino premises licence.
- (12) The licence holder may apply under section 187 to vary a converted casino premises licence so that it relates to premises which are different from those to which it previously related, and subsection (2) of that section (which prohibits a premises licence from being varied so as to relate to premises to which it did not previously relate) is accordingly not to have effect in relation to a converted casino premises licence.

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<sup>(51)</sup> See section 236 of the 2005 Act.

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(13) Where a converted casino premises licence is varied to relate to premises to which it did not previously relate, those premises must be wholly or partly situated in the area of the licensing authority which issued the licence.

### **Non-conversion applications for casino premises licences**

**66.**—(1) Where a converted casino premises licence has effect in respect of premises, nothing in Part 8 of the 2005 Act is to be taken as preventing the licence holder from making a non-conversion application for a casino premises licence which relates to or includes the same or substantially the same premises.

(2) Sub-paragraph (1) is to apply irrespective of whether or not the non-conversion application is made before, on or after 1st September 2007; or whether a previous non-conversion application has been made which relates to or includes the same or substantially the same premises.

(3) Where a non-conversion application for a casino premises licence is granted, the converted casino premises licence is to lapse when the licence issued on the grant of the non-conversion application takes effect.

(4) In this paragraph a “non-conversion application for a casino premises licence” means an application for a casino premises licence—

- (a) to which paragraph 54 does not apply, or
- (b) in a case in which that paragraph would otherwise apply, where the applicant includes a statement in the application indicating that that paragraph is not to apply to the application.

## **PART 8**

### **Conversion of lottery registrations under the Lotteries and Amusements Act 1976 into operating licences or registrations under the Gambling Act 2005**

#### **Conversion of society registrations into lottery operating licences**

**67.**—(1) This paragraph applies where—

- (a) a society is registered under Schedule 1A to the 1976 Act<sup>(52)</sup>, and
- (b) the registration has effect immediately before 1st September 2007.

(2) This paragraph also applies where a society is registered under Schedule 1A to the 1976 Act on or after 1st September 2007.

(3) The Gambling Commission must issue a lottery operating licence to the society on the relevant date or as soon as practicable after that date.

(4) Such a licence—

- (a) is referred to in this paragraph and in paragraph 68 as a converted society lottery operating licence, and
- (b) is included in any reference to a converted lottery operating licence in paragraphs 71 and 72.

(5) A converted society lottery operating licence is to have effect as both a remote and non-remote lottery operating licence; and section 67(2) and (3) of the 2005 Act (which prohibits an operating licence from being both a remote and non-remote licence) is not to apply to the licence.

<sup>(52)</sup> Schedule 1A was inserted by the National Lottery etc. Act 1993, section 48(5) and Part 2 of Schedule 7.



(6) In exercising its powers under section 75 of the 2005 Act (powers of Gambling Commission to impose general conditions on operating licences), the Commission must specify any conditions which are to apply to—

- (a) a converted society lottery operating licence, or
- (b) a converted society lottery operating licence falling within a specified class.

(7) Regulations under section 78 of the 2005 Act (which allows the Secretary of State to make regulations specifying conditions to be imposed on operating licences) may specify conditions which are to apply to a converted society lottery operating licence or to converted society lottery operating licences falling within a specified description.

(8) In this paragraph a reference to the relevant date is to—

- (a) 1st September 2007, or
- (b) in a case falling within sub-paragraph (2), the date on which the society is registered under Schedule 1A to the 1976 Act.

### **Conversion of society registrations: transitional provisions**

**68.**—(1) A society falling within sub-paragraph (1) of paragraph 67 is to be treated as if it holds a converted society lottery operating licence during the period beginning on 1st September 2007 and ending immediately before the converted society lottery operating licence issued to the society takes effect.

(2) Where the society or a person acting on its behalf carries out activities in reliance on sub-paragraph (1) they are to comply with any relevant operating licence conditions.

(3) Section 258 of the 2005 Act (which makes it an offence to promote a lottery other than in specified circumstances) is not to apply to activity by a society acting in reliance on sub-paragraph (1) if the activity is carried on in accordance with any relevant operating licence conditions.

(4) Section 258 of the 2005 Act is not to apply to activity by a person acting on behalf of a society to which sub-paragraph (1) applies if—

- (a) he acts otherwise than as an external lottery manager, and
- (b) the activity is carried on in accordance with any relevant operating licence conditions.

(5) In this paragraph, any reference to relevant operating licence conditions is to—

- (a) any conditions specified by the Gambling Commission under section 75 of the 2005 Act which would be attached in accordance with subsection (3) of that section to a converted society lottery operating licence; and
- (b) any conditions specified by the Secretary of State in regulations under section 78 of that Act which would be attached to such a licence.

### **Conversion of local lottery scheme registrations into lottery operating licences**

**69.**—(1) This paragraph applies where—

- (a) a scheme approved by a local authority in connection with the promotion of lotteries is registered under Schedule 2 to the 1976 Act<sup>(53)</sup>, and
- (b) the registration has effect immediately before 1st September 2007.

(2) This paragraph also applies where a scheme is registered under Schedule 2 to the 1976 Act on or after 1st September 2007.

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<sup>(53)</sup> Schedule 2 to the 1976 Act was amended by the National Lottery etc. Act 1993 (c. 39), paragraphs 1 to 10 of Schedule 8.

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(3) The Gambling Commission must issue a lottery operating licence to the local authority on the relevant date or as soon as practicable after that date.

(4) Such a licence—

- (a) is referred to in this paragraph and in paragraph 70 as a converted local authority lottery operating licence, and
- (b) is included in any reference to a converted lottery operating licence in paragraphs 71 and 72.

(5) A converted local authority lottery operating licence is to have effect as both a remote and non-remote lottery operating licence; and section 67(2) and (3) of the 2005 Act is not to apply to the licence.

(6) In exercising its powers under section 75 of the 2005 Act, the Commission must specify any conditions which are to be attached to—

- (a) a converted local authority lottery operating licence, or
- (b) a converted local authority lottery operating licence falling within a specified class.

(7) Regulations under section 78 of the 2005 Act may specify conditions which are to be attached to a converted local authority lottery operating licence or to converted local authority lottery operating licences falling within a specified description.

(8) In this paragraph a reference to the relevant date is to—

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

#### **Conversion of local lottery scheme registrations: transitional provisions**

**70.**—(1) A local authority to which sub-paragraph (1) of paragraph 69 applies is to be treated as if it holds a converted local authority lottery operating licence during the period beginning on 1st September 2007 and ending when the licence issued to the authority in accordance with that paragraph takes effect.

(2) Where the local authority or a person acting on its behalf carries out activities in reliance on sub-paragraph (1) they are to comply with any relevant operating licence conditions.

(3) Section 258 of the 2005 Act is not to apply to activity by a local authority acting in reliance on sub-paragraph (1) if the activity is carried on in accordance with any relevant operating licence conditions.

(4) Section 258 of the 2005 Act is not to apply to activity by a person acting on behalf of a local authority to which sub-paragraph (1) applies if—

- (a) he acts otherwise than as an external lottery manager, and
- (b) the activity is carried on in accordance with any relevant operating licence conditions.

(5) In this paragraph, any reference to relevant operating licence conditions is to—

- (a) any conditions specified by the Gambling Commission under section 75 of the 2005 Act which would be attached in accordance with subsection (3) of that section to a converted local lottery operating licence, and
- (b) any conditions specified by the Secretary of State in regulations under section 78 of that Act which would be attached to such a licence.

### **Duration of converted lottery operating licences**

71.—(1) Subject to the following provisions of this paragraph, a converted lottery operating licence is to cease to have effect on the last day of the period of three years beginning with the date on which the last 1976 Act fee was payable.

(2) Subject to sub-paragraph (3), where—

(a) the holder of a converted lottery operating licence applies for a lottery operating licence at least two months before the date on which the converted lottery operating licence is due to expire in accordance with sub-paragraph (1), and

(b) that application complies with section 69(2)(g) and (3) of the 2005 Act,

the converted lottery operating licence is not to cease to have effect by virtue of sub-paragraph (1) until the application is finally determined or is withdrawn.

(3) A converted lottery operating licence may cease to have effect before the date determined in accordance with sub-paragraphs (1) and (2) by virtue of section 113, 114, 115, 118 or 119 of the Act (which provide respectively for the surrender, lapse, forfeiture, suspension and revocation of operating licences).

(4) The reference in sub-paragraph (1) to the date on which the last 1976 Act fee was payable is to the last date before 1st September 2007 on which a fee was payable in respect of the registration by virtue of (as the case may be) paragraph 6(1)(a) of Schedule 1A or paragraph 7(1)(b) of Schedule 2 to the 1976 Act (each of which provides for the payment of periodic fees in respect of registrations under respectively Schedule 1A or 2 to the 1976 Act).

(5) Where no fee is payable before 1st September 2007 under the provisions of the 1976 Act referred to in sub-paragraph (4), the reference in sub-paragraph (1) to the date on which the last 1976 Act fee was payable is to be treated as a reference to the date on which the society or the local authority scheme was registered under that Act.

### **Application of Part 5 of the Gambling Act 2005 to converted lottery operating licences**

72.—(1) Part 5 of the 2005 Act is to be modified as follows in its application to a converted lottery operating licence.

(2) Section 99 (which specifies mandatory conditions of lottery operating licences) is to be modified so that, for the period beginning on the date on which the licence is issued and ending on 31st December 2007, the requirement specified in subsection (3)(b) is that the aggregate of the proceeds of lotteries promoted wholly or partly in reliance on the licence may not exceed—

$£10,000,000 - (A + B)$

where—

A is the total value of tickets or chances sold in the period beginning on 1st January 2007 and ending on 31st August 2007 in any lottery promoted wholly or partly in reliance on the 1976 Act registration, and

B is the aggregate amount of the proceeds of lotteries promoted wholly or partly under, as the case may be, paragraph 68 or 70.

(3) Sub-paragraph (2) only applies where the converted lottery operating licence is held by a society or local authority to which sub-paragraph (1) of (as the case may be) paragraph 67 or 69 applies.

(4) In sub-paragraph (2), “the 1976 Act registration” means—

(a) in relation to a converted lottery operating licence held by a society, the registration of the society under Schedule 1A to the 1976 Act which had effect immediately before 1st September 2007, and

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(b) in relation to a converted lottery operating licence held by a local authority, the registration under Schedule 2 to the 1976 Act which had effect immediately before 1st September 2007.

(5) Sections 110 to 112 (which relate to duration of operating licences) are not to apply.

### **Application of the Gambling Act 2005 to lotteries begun before 1st September 2007**

**73.**—(1) A lottery operating licence is to authorise the holder to continue to promote a lottery which the holder began promoting before 1st September 2007 in reliance on the 1976 Act registration.

(2) Where before 1st September 2007 a person is able to participate in such a lottery by purchasing a chance (whether participation in the lottery in this way is offered in addition to or instead of participation by purchasing a ticket), persons may continue on and after that date to purchase a chance and not a ticket in the lottery if the condition in sub-paragraph (3) is met.

(3) The condition is that the arrangements for the lottery provide for each and every draw in the lottery to take place before 1st March 2009.

(4) Section 99 of the 2005 Act (which makes provision about the conditions to be attached to lottery operating licences) is to have effect subject to the following modifications in relation a lottery which falls within the description in sub-paragraph (2) and complies with the condition in sub-paragraph (3).

(5) Subject to sub-paragraph (6), subsections (4), (6) and (8) of that section are to have effect as if any reference to a person purchasing a ticket in the lottery (irrespective of how it is described) included a reference to a person purchasing a chance in the lottery.

(6) Section 99 of the 2005 Act is to have effect as if the requirement in paragraph (b) of subsection (6) only applies where a person purchases a ticket in order to participate in the lottery.

(7) In sub-paragraph (1), “the 1976 Act registration” is to be construed in accordance with paragraph 72(4).

### **Conversion of society lottery registrations into registrations under the Gambling Act 2005**

**74.**—(1) This paragraph applies where—

- (a) a society is registered under Schedule 1 to the 1976 Act, and
- (b) the registration has effect immediately before 1st September 2007.

(2) This paragraph also applies where a society becomes registered under Schedule 1 to the 1976 Act on or after 1st September 2007.

(3) In England and Wales, the local authority which registered the society must on the relevant date, or as soon as practicable after that date, register the society under Part 5 of Schedule 11 to the 2005 Act.

(4) In Scotland, the council which registered the society must on the relevant date, or as soon as practicable after that date, provide the relevant licensing board with the information specified in sub-paragraph (5).

(5) The information to be provided is—

- (a) the name and address of the society,
- (b) the purposes for which the society is established,
- (c) the date on which the society was registered under Schedule 1 to 1976 Act, and
- (d) copies of any returns submitted in respect of the society in accordance with paragraph 11 of Schedule 1 to the 1976 Act.

(6) As soon as practicable after receiving the information specified in sub-paragraph (5), the relevant licensing board must register the society under Part 5 of Schedule 11 to the 2005 Act.

(7) In this paragraph—

- (a) a reference to registering a society under Part 5 of Schedule 11 to the 2005 Act is to entering the society, together with such information as may be prescribed by regulations in accordance with paragraph 44(a) of that Schedule, in the register kept for the purposes of that Part;
- (b) a reference to the relevant date is to—
  - (i) 1st September 2007, or
  - (ii) in a case falling within sub-paragraph (2), the date on which the society is registered under the 1976 Act; and
- (c) a reference to the relevant licensing board is to the licensing board constituted under section 1 of the Licensing (Scotland) Act 1976<sup>(54)</sup> in whose area are situated the principal premises of the society.

#### **Conversion of society lottery registrations: modification of Part 5 of Schedule 11 to the 2005 Act**

**75.**—(1) Paragraphs 44 and 46 of Schedule 11 to the 2005 Act are not to apply where a society is registered under Part 5 of that Schedule in pursuance of paragraph 74 above.

(2) Sub-paragraph (1) is subject to sub-paragraph (7)(a) of paragraph 74 above.

(3) Paragraph 54(2) of that Schedule is to have effect in relation to such a society as if for the reference to each anniversary of the registration of the society there were substituted a reference to 1st January in each year after 2007 on which the society is registered.

(4) In England and Wales, where a local authority registers a society under Part 5 of Schedule 11 to the 2005 Act in pursuance of paragraph 74 above, it must notify the society in writing of the registration before the beginning of the period referred to in sub-paragraph (2) of paragraph 54 of that Schedule (as that sub-paragraph has effect by virtue of sub-paragraph (3) above) when that period occurs for the first time during the registration.

(5) In Scotland, the council referred to in sub-paragraph (4) of paragraph 74 must at the same time as it provides the information referred to in that sub-paragraph give written notice to the society—

- (a) informing it that it is to be registered by the relevant licensing board under Part 5 of Schedule 11 to the 2005 Act, and
- (b) explaining the effect of sub-paragraphs (2) to (4) of paragraph 76.

(6) In sub-paragraph (5)(a), “the relevant licensing board” is to have the meaning given in paragraph 74(7)(c).

#### **Conversion of society lottery registrations: transitional provisions**

**76.**—(1) Where—

- (a) a local authority in England or Wales or a licensing board in Scotland are required under paragraph 74 to register a society under Part 5 of Schedule 11 to the 2005 Act, but
- (b) the society is not so registered until after the relevant date (within the meaning of that paragraph),

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<sup>(54)</sup> 1976 c. 66.

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during the period beginning on that date and ending immediately before the society is so registered (“the transitional period”) Part 4 of that Schedule is to have effect in relation to the society as if modified in accordance with sub-paragraphs (2) to (4) below.

(2) Paragraph 38 of Schedule 11 to the 2005 Act is not to apply to the society during the transitional period.

(3) Paragraph 39 of that Schedule is to have effect during the transitional period as if the reference to the local authority with which the society is registered was a reference to the authority which is required to register the society under paragraph 74 above.

(4) Paragraph 55 of that Schedule is to have effect as if the reference to a statement sent to a local authority under paragraph 39 of that Schedule included a reference to a statement sent under that paragraph in pursuance of sub-paragraph (3) above.

(5) Sub-paragraph (6) applies where—

- (a) a lottery is promoted by a society which was registered under Schedule 1 to the 1976 Act immediately before 1st September 2007 (referred to in that sub-paragraph as “the 1976 Act registration”), and
- (b) it is promoted wholly or partly in the period beginning on that date and ending on 31st December 2007,

(6) Paragraph 31(3) of Schedule 11 to the 2005 Act is to have effect in relation to such a lottery as if it provided for the lottery to be a large lottery if it is promoted wholly or partly at a time at which the aggregate of the society’s proceeds from society lotteries promoted wholly or partly during the period referred to in sub-paragraph (5) exceeds—

£250,000 – A,

where A is the total value of tickets or chances sold in the period beginning on 1st January 2007 and ending on 31st August 2007 in any lottery promoted in reliance on the 1976 Act registration.

### **Application of Schedule 11 to the Gambling Act 2005 to lotteries begun before 1st September 2007**

77.—(1) Subject to the following provisions of this paragraph, Schedule 11 to the 2005 Act is to apply to a lottery whose promotion was begun (but not completed) before 1st September 2007 in the same way as it applies to a lottery which is wholly promoted on or after that date.

(2) Where before 1st September 2007 a person is able to participate in such a lottery by purchasing a chance (whether participation in the lottery in this way is offered in addition to or instead of participation by purchasing a ticket), persons may continue on and after that date to purchase a chance and not a ticket in the lottery if the condition in sub-paragraph (3) is met.

(3) The condition is that the arrangements for the lottery provide for each and every draw in the lottery to take place before 1st March 2009.

(4) Schedule 11 to the 2005 Act is to have effect subject to the following modifications in relation to a lottery which falls within the description in sub-paragraph (2) and complies with the condition in sub-paragraph (3).

(5) Subject to the following provisions of this paragraph any reference in that Schedule to a ticket is to include a reference to a chance.

(6) Where the lottery is a private lottery, paragraphs 15 and 18(b) of that Schedule are not to apply if a person purchases a chance (as opposed to a ticket) to participate in the lottery.

(7) Where the lottery is a small society lottery, paragraph 36 of that Schedule is only to apply where a person purchases a ticket to participate in the lottery.

## 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<sup>(55)</sup> 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.

(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.

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<sup>(55)</sup> See sections 266 and 268 of the 2005 Act for the definitions of “members' club” and “miners' welfare institute”.

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(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<sup>(56)</sup> 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.

(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.

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<sup>(56)</sup> 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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(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.

### **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).

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(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.

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(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.

#### **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

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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—

- (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 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 92(3).

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(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.

## PART 10

### Conversion of permits under section 34 of the Gaming Act 1968 into family entertainment centre gaming machine permits

#### Meaning of existing operator for the purposes of applications for family entertainment centre gaming machine permits

**94.**—(1) This paragraph specifies the circumstances in which a person applying for a family entertainment centre gaming machine permit (referred to in this Part as a “FEC gaming machine permit”) is to be treated for the purposes of this Part as an existing family entertainment centre operator.

(2) A person is an existing family entertainment centre operator if on the date on which he makes the application for the FEC gaming machine permit—

- (a) he holds a permit under section 34 of the 1968 Act<sup>(57)</sup> (referred to in this Part as a “section 34 permit”)—
  - (i) granted by one of the authorities mentioned in paragraph 1(b) or (d) of Schedule 9 to the 1968 Act<sup>(58)</sup> in respect of amusement machine premises, and
  - (ii) which is expressed to be granted for the purposes of section 34(1) of the 1968 Act<sup>(59)</sup>; or
- (b) he is applying for such a permit, and the application (including any appeal) has not been finally determined or withdrawn.

#### Conversion of section 34 permits into FEC gaming machine permits

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

- (a) an existing family entertainment centre operator makes an advance application for a FEC gaming machine permit under Schedule 10 to the 2005 Act,
- (b) the application relates to the same or substantially the same premises as those to which the section 34 permit relates, and
- (c) the application complies with any requirements imposed by or under paragraphs 2 to 4 and 5(b) and (d) of that Schedule,

the licensing authority must grant that application.

(2) Paragraphs 8(1)(b), 9 and 10 of Schedule 10 to the 2005 Act are not to apply to such an application.

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<sup>(57)</sup> Section 34 was amended by [S.I. 1996/1359](#) and [S.I. 2003/3275](#).

<sup>(58)</sup> Sub-paragraph (b) of paragraph 1 was partially repealed by the Local Government Act 1972 (c. 70), Schedule 30. Sub-paragraph (d) of paragraph 1 was amended by the Local Government (Scotland) Act 1973 (c. 65), Schedule 24, paragraph 32, and by the Local Government etc. (Scotland) Act 1994, Schedule 13, paragraph 78(4).

<sup>(59)</sup> Subsection (1) was amended by [S.I. 1996/1359](#).



### **Failure to make the application for a FEC gaming machine permit in the appropriate form or manner**

**96.**—(1) This paragraph applies to any application for a FEC gaming machine permit which meets the conditions in paragraphs (a) to (c) of paragraph 95(1), but does not comply with a requirement imposed under sub-paragraph (a) or (c) of paragraph 5 of Schedule 10 to the 2005 Act.

(2) Where the licensing authority give notice in writing to the applicant requesting him to do anything which is necessary for the purposes of complying with any such requirement, the licensing authority are to cease to be under a duty by virtue of paragraph 95(1) to grant the application until such time as the applicant complies with the request.

(3) In the case of an application made before 31st July 2007, 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) If, in a case to which paragraph 98 applies, the applicant fails to comply with the request within the period specified in accordance with sub-paragraph (3) above—

- (a) sub-paragraph (3) of that paragraph is to cease to apply to the application after the end of that period; and
- (b) where the relevant FEC gaming machine permit is treated as having been issued to the applicant by virtue of that sub-paragraph, the permit is to lapse.

### **Effect of cancellation of section 34 permit**

**97.**—(1) Where—

- (a) a person makes an application for a FEC gaming machine permit which meets the conditions in paragraphs (a) to (c) of paragraph 95(1), and
- (b) the section 34 permit by virtue of which he qualifies as an existing family entertainment centre operator is cancelled,

the licensing authority must reject the application.

(2) Where despite sub-paragraph (1) the licensing authority purport to grant the FEC gaming machine permit in respect of which the application is made, the permit is to be of no effect.

(3) Where the section 34 permit is cancelled after the licensing authority have issued the FEC gaming machine permit in pursuance of paragraph 95(1), the permit is to lapse on the date on which the section 34 permit is cancelled.

### **Provisions to ensure that existing family entertainment centre operators can continue to operate on and after 1st September 2007**

**98.**—(1) This paragraph applies to an application for a FEC gaming machine permit which meets the conditions in paragraphs (a) to (c) of sub-paragraph (1) of paragraph 95, but where in addition the application is made before 31st July 2007.

(2) The licensing authority must determine any such application within a period of one month beginning on the date on which the application is made.

(3) If the licensing authority do not determine the application within the period referred to in sub-paragraph (2)—

- (a) the application is to be treated as having been granted, and
- (b) the relevant FEC gaming machine permit as having been issued to the applicant,

on the day immediately following the end of that period.

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(4) Where by virtue of sub-paragraph (3) above a FEC gaming machine permit is treated as having been issued to a person, paragraph 8(3) of Schedule 10 to the 2005 Act (which makes provision about the issuing of FEC gaming machine permits) is to have effect as if it required the licensing authority to provide the applicant with a copy of the permit as soon as practicable on or after the date of issue.

(5) For the purposes of paragraph 11(1)(c) of Schedule 10 to the 2005 Act (which requires the date on which a FEC gaming machine permit takes effect to be specified in the permit), the licensing authority are to specify 1st September 2007 as the date on which the FEC gaming machine permit takes effect.

### **Conversion of section 34 permits into FEC gaming machine permits: supplementary provisions**

**99.**—(1) This paragraph applies to an advance application for a FEC gaming machine permit where the person making the application qualifies as an existing family entertainment centre operator by virtue of paragraph 94(2)(b).

(2) Paragraph 95(1) is to have effect in relation to such an application as if the following paragraph was substituted for paragraph (b)—

“(b) the application relates to the same or substantially the same premises as those to which the application for the section 34 permit relates, and”.

(3) Where the application meets the conditions in paragraphs (a) to (c) of sub-paragraph (1) of paragraph 95, that sub-paragraph is to be modified so that—

- (a) the licensing authority may not determine the application for a FEC gaming machine permit before the application for the section 34 permit has been determined;
- (b) the licensing authority are only to be under a duty to grant the application for a FEC gaming machine permit if the application for the section 34 permit is granted; and
- (c) the licensing authority must reject the application for a FEC gaming machine permit if the application for the section 34 permit is refused.

(4) Sub-paragraph (3) is subject to paragraph 100(2).

(5) The following provisions of this paragraph apply where the application is one to which paragraph 98 applies.

(6) Sub-paragraph (2) of paragraph 98 is to be subject to paragraph (3) above.

(7) Where—

- (a) the application for the section 34 permit is granted before 1st September 2007, but
- (b) it is granted after the day referred to in sub-paragraph (3) of paragraph 98,

that sub-paragraph is to have effect as if it provided for the application to be treated as having been granted and the relevant FEC gaming machine permit issued on the date on which the application for the section 34 permit is granted.

(8) Sub-paragraphs (2) and (3) of paragraph 98 are not to apply where the application for the section 34 permit is refused or withdrawn, or is not granted before 1st September 2007.

(9) For the purposes of this paragraph, where an application for a section 34 permit is refused, it is not to be treated as having been determined or refused until the period for appealing against the decision to refuse the permit has elapsed; or, if an appeal is made, unless and until the appeal is dismissed or abandoned.

**Conversion of section 34 permits into FEC gaming machine permits: supplementary provisions where premises are situated in Scotland**

**100.**—(1) This paragraph applies in any case falling within paragraph 99 where the premises to which the application for the section 34 permit relates are situated in Scotland.

(2) Paragraph 99 is to have effect as if for sub-paragraph (3) there were substituted—

“(3) Where the application meets the conditions in paragraphs (a) to (c) of sub-paragraph (1) of paragraph 95, that sub-paragraph is to be modified so that—

- (a) the licensing authority may not determine the application for a FEC gaming machine permit until the applicant notifies it in writing of the determination of the application for the section 34 permit;
- (b) the licensing authority are only to be under a duty to grant the application for a FEC gaming machine permit if—
  - (i) the application for the section 34 permit is granted, and
  - (ii) the applicant has given the authority written notice of that fact and provided it with a copy of the permit; and
- (c) the licensing authority must reject the application for a FEC gaming machine permit if the application for the section 34 permit is refused.”

(3) Subject to sub-paragraphs (4) and (5) below, where sub-paragraph (3) of paragraph 98 applies because the application for the section 34 permit is granted before 1st September 2007, sub-paragraph (4) of that paragraph is to have effect as if it required the licensing authority to provide the applicant with a copy of the FEC gaming machine permit as soon as practicable on or after the date on which they are notified of the grant of the application for the section 34 permit and provided with a copy of the permit.

(4) Where paragraph 98(3) applies because the application for the section 34 permit is granted before 1st September 2007, the applicant must notify the licensing authority of the fact that the application has been granted, and provide them with a copy of the section 34 permit, before the end of the period of 14 days beginning on the day on which the application is granted.

(5) Where the applicant fails to do the things referred to in sub-paragraph (4) within the period specified in that sub-paragraph, the licensing authority may revoke the permit issued in accordance with paragraph 98(3).

## PART 11

### Conversion of permits under section 16 of the Lotteries and Amusements Act 1976 into prize gaming permits

**Meaning of existing operator for the purposes of an application for a prize gaming permit**

**101.**—(1) This paragraph specifies the circumstances in which a person applying for a prize gaming permit under Schedule 14 to the 2005 Act (referred to in this Part as a “prize gaming permit”) is to be treated for the purposes of this Part as an existing operator.

(2) A person is an existing operator if on the date on which he makes the application for the prize gaming permit—

- (a) he holds a permit issued under section 16 of the 1976 Act (which provides for permits authorising the provision of amusements with prizes at certain commercial entertainments) (referred to in this Part as a “section 16 permit”), or

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- (b) he is applying for such a permit, and the application (including any appeal) has not been finally determined or withdrawn.

### **Conversion of section 16 permits into prize gaming permits**

**102.**—(1) Where—

- (a) an existing operator makes an advance application for a prize gaming permit,
- (b) the application relates to the same or substantially the same premises as those to which the section 16 permit relates, and
- (c) the application complies with the requirements of paragraphs 3 to 5 and 6(b), (c) and (e) of Schedule 14 to the Act,

the licensing authority must grant that application.

(2) Paragraphs 9(1)(b), 10 and 11 of Schedule 14 to the 2005 Act are not to apply to such an application.

### **Failure to make the application for a prize gaming permit in the appropriate form or manner**

**103.**—(1) This paragraph applies to any application for a prize gaming permit which meets the conditions in paragraphs (a) to (c) of paragraph 102(1), but does not comply with a requirement imposed under sub-paragraph (a) or (d) of paragraph 6 of Schedule 14 to the 2005 Act.

(2) Where the licensing authority give notice in writing to the applicant requesting him to do anything which is necessary for the purposes of complying with any such requirement, the licensing authority are to cease to be under a duty by virtue of paragraph 102(1) to grant the application until such time as the applicant complies with the request.

(3) In the case of an application made before 31st July 2007, 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) If, in a case to which paragraph 105 applies, the applicant fails to comply with the request within the period specified in accordance with sub-paragraph (3) above—

- (a) sub-paragraph (3) of that paragraph is to cease to apply to the application after the end of that period; and
- (b) where the relevant prize gaming permit is treated as having been issued to the applicant by virtue of that sub-paragraph, the permit is to lapse.

### **Effect of cancellation of section 16 permit**

**104.**—(1) Where—

- (a) a person makes an application for a prize gaming permit which meets the conditions in paragraphs (a) to (c) of paragraph 102(1), and
- (b) the section 16 permit by virtue of which he qualifies as an existing operator is cancelled,

the licensing authority must reject the application.

(2) Where despite sub-paragraph (1) the licensing authority purport to grant the prize gaming permit in respect of which the application is made, the permit is to be of no effect.

(3) Where the section 16 permit is cancelled after the licensing authority have issued the prize gaming permit in pursuance of paragraph 102(1), the permit is to lapse on the date on which the section 16 permit is cancelled.

### **Provisions to ensure that existing operators can continue to operate on and after 1st September 2007**

**105.**—(1) This paragraph applies to an application for a prize gaming permit which meets the conditions in paragraphs (a) to (c) of paragraph 102(1), but where in addition the application is made before 31st July 2007.

(2) The licensing authority must determine any such application within a period of one month beginning on the date on which the application is made.

(3) If the licensing authority do not determine the application within the period referred to in sub-paragraph (2)—

(a) the application is to be treated as having been granted, and

(b) the relevant prize gaming permit as having been issued to the applicant,

on the day immediately following the end of that period.

(4) Where by virtue of sub-paragraph (3) above a prize gaming permit is treated as having been issued to a person, paragraph 9(3) of Schedule 14 to the 2005 Act (which makes provision about the issuing of prize gaming permits) is to have effect as if it required the licensing authority to provide the applicant with a copy of the permit as soon as practicable on or after the date of issue.

(5) For the purposes of paragraph 12(1)(d) of Schedule 14 to the 1968 Act (which requires the date on which a prize gaming permit takes effect to be specified in the permit), the licensing authority are to specify 1st September 2007 as the date on which the prize gaming permit takes effect.

### **Conversion of section 16 permits into prize gaming permits: supplementary provisions**

**106.**—(1) This paragraph applies to an application for a prize gaming permit where the person making the application qualifies as an existing operator by virtue of paragraph 101(2)(b).

(2) Paragraph 102(1) is to have effect in relation to such an application as if the following paragraph was substituted for paragraph (b)—

“(b) the application relates to the same or substantially the same premises as those to which the application for the section 16 permit relates, and”.

(3) Where the application meets the conditions in paragraphs (a) to (c) of paragraph 102(1), that sub-paragraph is to be modified so that—

(a) the licensing authority may not determine the application for a prize gaming permit before the application for the section 16 permit has been determined;

(b) the licensing authority are only to be under a duty to grant the application for a prize gaming permit if the application for the section 16 permit is granted; and

(c) the licensing authority must reject the application for a prize gaming permit if the application for the section 16 permit is refused.

(4) Sub-paragraph (3)(b) is subject to paragraph 107(2).

(5) The following provisions of this paragraph apply where the application is one to which paragraph 105 applies.

(6) Sub-paragraph (2) of paragraph 105 is to be subject to paragraph (3) above.

(7) Where—

(a) the application for the section 16 permit is granted before 1st September 2007, but

(b) it is granted after the day referred to in sub-paragraph (3) of paragraph 105,

that sub-paragraph is to have effect as if it provided for the application to be treated as having been granted and the relevant prize gaming permit issued on the date on which the application for the section 16 permit is granted.

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(8) Sub-paragraphs (2) and (3) of paragraph 105 are not to apply where the application for the section 16 permit is refused or withdrawn, or is not granted before 1st September 2007.

(9) For the purposes of this paragraph, where an application for a section 16 permit is refused, it is not to be treated as having been determined or refused until the period for appealing against the decision to refuse the permit has elapsed; or, if an appeal is made, unless and until the appeal is dismissed or abandoned.

**Conversion of section 16 permits into prize gaming permits: supplementary provisions where premises are situated in Scotland**

**107.**—(1) This paragraph applies in any case falling within paragraph 106 where the premises to which the application for the section 16 permit relates are situated in Scotland.

(2) Paragraph 106 is to have effect as if for sub-paragraph (3) there were substituted—

“(3) Where the application meets the conditions in paragraphs (a) to (c) of paragraph 102(1), that sub-paragraph is to be modified so that—

- (a) the licensing authority may not determine the application for a prize gaming permit until the applicant notifies it in writing of the determination of the application for the section 16 permit; and
- (b) the licensing authority are only to be under a duty to grant the application for a prize gaming permit if—
  - (i) the application for the section 16 permit is granted, and
  - (ii) the applicant has given the authority written notice of that fact and provided it with a copy of the permit;
- (c) the licensing authority must reject the application for a prize gaming permit if the application for the section 16 permit is refused.”

(3) Subject to sub-paragraphs (4) and (5) below, where sub-paragraph (3) of paragraph 105 applies because the application for the section 16 permit is granted before 1st September 2007, sub-paragraph (4) of that paragraph is to have effect as if it required the licensing authority to provide the applicant with a copy of the prize gaming permit as soon as practicable on or after the date on which they are notified of the grant of the application for the section 16 permit and provided with a copy of the permit.

(4) Where paragraph 105(3) applies because the application for the section 16 permit is granted before 1st September 2007, the applicant must notify the licensing authority of the fact that the application has been granted, and provide them with a copy of the section 16 permit, before the end of the period of 14 days beginning on the day on which the application is granted.

(5) Where the applicant fails to do the things referred to in sub-paragraph (4) within the period specified in that sub-paragraph, the licensing authority may revoke the permit issued in accordance with paragraph 105(3).