SCOTTISH STATUTORY INSTRUMENTS

2007 No. 394

BETTING, GAMING AND LOTTERIES

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

Made - - - -	*30th August 2007*
Laid before the Scottish Parliament	*31st August 2007*
Coming into force - -	*24th September 2007*

The Scottish Ministers make the following Regulations, in exercise of the powers conferred by sections 197(3) to (7), 200(4) to (6) and 355(1) of the Gambling Act 2005(**a**) and all other powers enabling them to do so.

Citation, commencement and extent

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

(2) These Regulations extend only to Scotland.

Interpretation

2. In these Regulations–

"the Act" means the Gambling Act 2005;

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

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

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

Giving of notice of an application

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

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

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

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

(**a**) 2005 c.19.
(**b**) 1971 c.80.

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

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

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

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

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

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

Publication of notice of an application by the licensing authority

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

(a) either–

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

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

(b) by displaying the notice at a place–

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

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

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

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

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

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

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

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

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

Failure to give proper notice of an application

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

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

(**a**) See section 158 of the Act for the meaning of "interested party".

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

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

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

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

(a) notice has been given by the applicant in accordance with paragraph (3); and

(b) the period referred to in paragraph (4) has elapsed.

(7) Subject to paragraph (6), the licensing authority may disregard any irregularity in relation to the giving of notice under regulation 3.

Failure properly to publish notice of an application

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

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

(a) they fail to publish a notice which they are required to publish under sub-paragraph (a) or (b) of regulation 4(1); or

(b) the published notice does not comply with the requirements of these Regulations as to the form and manner in which it is to be published.

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

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

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

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

(7) The licensing authority may not grant the application until–

(a) notice has been published in accordance with paragraph (3); and

(b) the period referred to in paragraph (4) has elapsed.

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

Giving and publication of notice of intention to conduct a review

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

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

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

(b) each of the authorities which in accordance with section 157 of the Act are the responsible authorities in relation to the premises; or

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

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

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

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

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

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

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

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

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

(a) either–

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

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

(b) by displaying the notice at a place–

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) notice has been given by the applicant in accordance with paragraph (3); and

(b) the period referred to in paragraph (4) has elapsed.

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

Failure properly to publish notice of intention to hold a review

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

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

(a) they fail to publish a notice under section 200(3)(b) of the Act in the manner in which they are required to publish the notice under sub-paragraph (a) or (b) of regulation 7(7), or

(b) the published notice does not comply with the requirements of these Regulations as to the form and manner in which it is to be published.

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

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

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

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

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

(a) notice has been published in accordance with paragraph (3); and

(b) the period referred to in paragraph (4) has elapsed.

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

Manner of making and giving of notices

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

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

(3) The conditions are that–

(a) the text of the notice–

(i) is capable of being accessed by the recipient;

(ii) is legible in all material respects; and

(iii) is capable of being read and reproduced in written form and used for subsequent reference by the recipient; and

(b) the person to whom the notice is to be given has agreed in advance that a notice may be given by the particular electronic means used.

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

Matters not required to be included in a notice

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

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

(3) In paragraph (2), "the licensing authority" means–

(a) in relation to a notice of an application under regulation 3, the licensing authority to whom the application is made; and

(b) in relation to a notice given or published by a licensing authority, that authority.

KENNY MACASKILL
A member of the Scottish Executive

St Andrew's House,
Edinburgh
30th August 2007

SCHEDULE 1 Regulation 3(3)

Form of the notice of application to be given to the holder of the premises licence and the responsible authorities

NOTICE OF APPLICATION FOR A REVIEW OF A PREMISES LICENCE

This notice is given in accordance with regulations made under section 197 of the Gambling Act 2005

Notice is hereby given that:

……..
[*Give the full name of the applicant(s) as set out in Part 1 of the application for a review of the premises licence*]

has made an application under section 197 of the Gambling Act 2005 for a review of the premises licence which is in force at the following premises:

……

……

……

……

……

……

……
[*Give the trading name used at the premises, and the address of the premises (or, if not known, give a description of the premises and their location)*.]

The applicant is:

a responsible authority ☐ an interested party ☐ [*check or tick the appropriate box*]

The following type of premises licence has effect in respect of the premises:

……
[*Indicate the type of premises licence which applies to the premises, eg bingo premises licence, adult gaming centre premises licence etc.*]

The application for a review of the premises licence has been made to the following licensing authority:

…….

…….

…….

……Postcode…….

Website:……
[*Insert name of the licensing authority and the address of its principal office, followed by the address of its website*]

Information about the application is available from the licensing authority, including the arrangements for viewing the details of the application.

The following person connected with the applicant is able to give further information about the application:

…….
[*This entry is optional and is to be included if the applicant wishes to provide the name, telephone number and (if available) e-mail address of a person connected with the applicant who is able to answer questions and provide further information about the application.*]

The grounds on which a review is being sought are:

……..

……..

……..

……..

…….

Representations about the application may be made in writing to the licensing authority by the licence holder, a responsible authority or an interested party during the period of 28 consecutive days beginning on……..……... (which is 7 days after the date on which the application for a review was made to the licensing authority). The last day for making representations is:

…….....

Following a review under section 201 of the Gambling Act 2005 a licensing authority may decide to take any of the following kinds of action:

- **revoke the licence**
- **suspend the licence for a specified period not exceeding 3 months**
- **add, remove or amend a condition attached to the licence**

SCHEDULE 2

Regulation 4(5)

Form of the notice of application to be published by a licensing authority

NOTICE OF APPLICATION FOR A REVIEW OF A PREMISES LICENCE UNDER THE GAMBLING ACT 2005

An application has been made under section 197 of the Gambling Act 2005 for a review of the premises licence which is in force in respect of the following premises:

……

……

……
[*Give the trading name used at the premises, and the address of the premises (or, if not known, give a description of the premises and their location).*]

The following type of premises licence applies to the premises:……

A review is being sought on the following grounds:

……

……

……

The application has been made on:……..……..
[*Insert the date on which the application has been made*]

The licence holder or a responsible authority may make representations in writing about the application, as may any of the following persons:

- A person who lives sufficiently close to the premises to be likely to be affected by the authorised activities
- A person who has business interests that might be affected by the authorised activities
- A person who represents someone in any of the above two categories

Any representations are to be made to the following licensing authority:

……..
[*Insert the name of licensing authority*]

and may be made during the period of 28 consecutive days beginning 7 days after the date on which the application was made. That period ends on :

……
[*Insert last day on which representations may be made in relation to the application.*]

Information about the application is available from the licensing authority, including the arrangements for viewing the details of the application.

It is an offence under section 342 of the Gambling Act 2005 if a person, without reasonable excuse, gives to a licensing authority for a purpose connected with that Act information which is false or misleading.

SCHEDULE 3 Regulation 7(1)

Form of the notice of intention to hold a review to be given to holder of the premises licence and responsible authorities

NOTICE OF INTENTION TO HOLD A REVIEW OF A PREMISES LICENCE

This notice is given in accordance with regulations made under section 200 of the Gambling Act 2005

Notice is hereby given that the following licensing authority:

……..

whose address is:

…….

…….

…….

……Postcode…….

Website:……
[*Insert the address of the authority's principal office, followed by the address of its website*]

intends to hold a review under section 201 of the Gambling Act 2005 of the premises licence which is in force at the following premises:

……

……

……

……

……

……
[*Give the trading name used at the premises, and the address of the premises (or, if not known, give a description of the premises and their location)*.]

The following type of premises licence has effect in respect of the premises:

……
[*Indicate the type of premises licence which applies to the premises, eg bingo premises licence, adult gaming centre premises licence etc.*]

The licensing authority intends to hold the review for the following reasons:

……..

……..

……..

……..

……

……

……

The following person connected with the licensing authority is able to give further information about the review:

……

Representations about the proposed review may be made in writing to the licensing authority by the licence holder, a responsible authority or an interested party during the period of 28 consecutive days beginning on the date on which the notice of the authority's intention to hold the review was given to the licence holder. The last day of the period for making representations is:

……..

Following a review under section 201 of the Gambling Act 2005 a licensing authority may decide to take any of the following kinds of action:

- **revoke the licence**
- **suspend the licence for a specified period not exceeding 3 months**
- **add, remove or amend a condition attached to the licence**

SCHEDULE 4 Regulation 7(5)

Form of the notice of intention to hold a review to be published by a licensing authority

NOTICE OF INTENTION TO HOLD A REVIEW OF A PREMISES LICENCE UNDER THE GAMBLING ACT 2005

Notice is hereby given that the following licensing authority:

……
[*Give the name of the licensing authority*]

intends to hold a review under section 201 of the Gambling Act 2005 of the premises licence which is in force at the following premises:

……..

……..

……..
[*Give the trading name used at the premises, and the address of the premises (or, if not known, give a description of the premises and their location).*]

The following type of premises licence applies to the premises:

……..

The licensing authority intends to hold the review for the following reasons:

……..

……..

……..

The licence holder or a responsible authority may make representations in writing to the licensing authority about the review, as may any of the following persons:

- A person who lives sufficiently close to the premises to be likely to be affected by the authorised activities
- A person who has business interests that might be affected by the authorised activities
- A person who represents someone in any of the above two categories

Representations may be made during the period of 28 consecutive days beginning on the date on which notice of the intention to hold a review was given to the licence holder. That period ends on:

……
[*Insert last day on which representations may be made in relation to the application.*]

Further information about the review is available from the licensing authority.

It is an offence under section 342 of the Gambling Act 2005 if a person, without reasonable excuse, gives to a licensing authority for a purpose connected with that Act information which is false or misleading.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision about:

– the procedure for applications for a review of a premises licence made under section 197 of the Gambling Act 2005 ("the Act"); and

- the form of notices under section 200(3) of the Act (which indicate a licensing authority's intention to hold a review of a premises licence) and the procedure to be adopted in connection with such notices.

Regulation 3 requires a person applying for a review of a premises licence to give a notice of the application to the person holding the premises licence and to the responsible authorities in relation to the premises. The regulation also specifies the period within which the notice is to be given and the form of the notice. In particular it provides for the notice to be in the form specified in Schedule 1.

Regulation 4 requires the licensing authority to which an application for a review is made to publish notice of the application in the ways described in paragraph (1)(a) and (b). Paragraphs (3) and (4) specify the period within which publication must take place. Regulation 4 specifies the form of the notice and in particular that it is to be in the form specified in Schedule 2.

Regulation 5 makes provision for those cases where a person applying for a review fails to give notice to the premises licence holder or a responsible authority in the appropriate form and manner within the required period. In these circumstances, the applicant is required to give notice to the premises licence holder or a responsible authority in the appropriate form and manner as soon as practicable after the end of that period. In such a case, the period by which the premises licence holder or the responsible authority is required to make representations is extended so that it runs until the end of the period of 28 days starting on the date on which the notice in the proper form and manner is received. The licensing authority may not grant the application until that period has elapsed. Subject to that, the licensing authority may disregard any irregularity in the giving of notice under regulation 3.

Regulation 6 makes provision for those cases where the licensing authority fail to publish a notice of an application for a review in the appropriate form or manner and within the required period. Provisions similar to those in regulation 5 apply to extend the period by which interested parties may make representations about the application for a review.

Regulation 7 makes provision about the notice of intention to hold a review which is to be given and published by a licensing authority under section 200(3) of the Act. The regulation specifies the form of the notice in each case and the matters to be contained in it. In particular, it provides for a notice given under section 200(3)(a) to be in the form specified in Schedule 3 and for a notice published under section 200(3)(b) to be in the form specified in Schedule 4. Regulation 7 also makes provision about the period within which a notice under section 200(3)(b) must be given or published and the manner of publication.

Regulation 8 makes provision for those cases where the licensing authority give notice under section 200(3)(a) of the Act to the holder of the premises licence, but the notice does not comply with the requirements of the Regulations as to the form and manner in which the notice is to be given. In such a case the notice is of no effect and the licensing authority must give a further notice to the person concerned.

Regulation 9 makes provision for those cases where the licensing authority give notice under section 200(3)(a) of the Act to a responsible authority in relation to the premises, but the notice does not comply with the requirements of the Regulations as to the form and manner in which the notice is to be given. Provisions similar to those in regulation 5 apply to require the giving of a further notice which complies with the relevant requirements and to extend the period within which the authority concerned may make representations about the review.

Regulation 10 makes provision for those cases where the licensing authority fail to publish a notice of their intention to hold a review in the appropriate form or manner. Provisions similar to those in regulation 6 apply to extend the period by which interested parties may make representations about the review.

Regulation 11 makes provision about the manner in which notices under regulation 3 or under section 200(3)(a) of the Act are to be given.

Regulation 12 makes further provision about the form of a notice to be given or published under these Regulations.

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