STATUTORY INSTRUMENTS

2006 No. 1758

BETTING, GAMING AND LOTTERIES

The Gambling Act 2005 (Transitional Provisions) (No.2) Order 2006

Made - - - -	*4th July 2006*
Laid before Parliament	*5th July 2006*
Coming into force - -	*1st August 2006*

The Secretary of State makes the following Order in exercise of the powers conferred by section 355(1) of, and paragraphs 8 and 11 of Schedule 18 to, the Gambling Act 2005(**a**):

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Gambling Act 2005 (Transitional Provisions) (No.2) Order 2006 and shall come into force on 1st August 2006.

(2) In this Order—

"the 1963 Act" means the Betting, Gaming and Lotteries Act 1963(**b**);

"the 1968 Act" means the Gaming Act 1968(**c**);

"the 1976 Act" means the Lotteries and Amusements Act 1976(**d**); and

"amusement machine premises" has the meaning given to it by section 34(7A) of the 1968 Act(**e**).

Betting, Gaming and Lotteries Act 1963: grant of new track betting licences

2.—(1) This article applies to any track betting licence which is due to expire in accordance with paragraph 8 of Schedule 3 to the 1963 Act(**f**) in the period beginning on 1st September 2006 and ending on 30th August 2007.

(2) Subject to paragraph (10), if a track betting licence to which this article applies (referred to below as "the previous track betting licence") is still in force immediately before it is due to expire, the licensing authority which granted the licence are to be treated as having granted a new track betting licence in respect of the track to which the previous track betting licence related.

(**a**) 2005 c.19.
(**b**) 1963 c.2. The Betting, Gaming and Lotteries Act 1963 is to be repealed by the Gambling Act 2005, section 356(3)(f) and (4) and Schedule 17, on a date to be appointed by order made under section 358(1) of that Act.
(**c**) 1968 c.65. The Gaming Act 1968 is to be repealed by the Gambling Act 2005, section 356(3)(g) and (4) and Schedule 17, on a date to be appointed by order made under section 358(1) of that Act.
(**d**) 1976 c.32. The Lotteries and Amusements Act 1976 is repealed by the Gambling Act 2005, section 356(3)(i) and (4) and Schedule 17, on a date to be appointed by order made under section 358(1) of that Act.
(**e**) Subsection (7A) was inserted by S.I. 1996/1359. Other amendments have been made to section 34 which are not relevant to this Order.
(**f**) Amendments have been made to Schedule 3 which are not relevant to this Order.

(3) A licence granted in accordance with paragraph (2) is to be treated as having been granted when the previous track betting licence expires to the person who held that licence immediately before it expired.

(4) A licence granted in accordance with paragraph (2) is referred to in this article as a "new track betting licence".

(5) Paragraph 8 of Schedule 3 to the 1963 Act is to have effect in relation to a new track betting licence as if it provided for the licence to be in force until the end of 31st August 2007, unless cancelled under paragraph 10 or revoked under paragraph 13 of that Schedule.

(6) Where—

(a) the holder of a new track betting licence makes a request in writing to the relevant licensing authority for a copy of the licence, and

(b) that request is made in accordance with paragraph (7),

the authority must comply with the request as soon as reasonably practicable.

(7) When making a request under paragraph (6), the holder of a new track betting licence must include the previous track betting licence or, if for any reason that is not reasonably practicable, he must include a written statement—

(a) explaining why it is not reasonably practicable to provide that licence, and

(b) indicating—

(i) the premises to which the licence related,

(ii) the date on which it was granted, and

(iii) the date on which it expired.

(8) Paragraph (9) applies where before the previous track betting licence expires—

(a) the holder of that licence applies to the licensing authority which granted it for the grant of a further track betting licence in respect of the same track, or

(b) he gives notice under paragraph 5 of Schedule 3 to the 1963 Act to the licensing authority that he intends to make such an application.

(9) Where this paragraph applies—

(a) paragraph 12(1) of Schedule 3 to the 1963 Act (which provides for the payment of an application fee in respect of applications for track betting licences) is not to apply in relation to the application for the grant of a track betting licence;

(b) the licensing authority may not determine the application until the previous track betting licence has expired, and they may only do so after the licence expires if a new track betting licence is not granted in accordance with paragraph (2);

(c) where a new track betting licence is granted in accordance with paragraph (2), the notice or application referred to in paragraph (8) is to be treated on and after the date on which that licence is granted as if it were a request made under paragraph (6); and

(d) the requirement to comply with that request is to apply irrespective of whether the notice or application is accompanied by the previous track betting licence or includes the information specified in paragraph (7).

(10) Paragraphs (2) to (9) are not to apply where before the date on which this Order comes into force—

(a) the holder of the previous track betting licence applies under paragraph 3 of Schedule 3 to the 1963 Act for the grant of a track betting licence to have effect in respect of the same track, and

(b) the licensing authority determine that application.

(11) In this article "track" and "track betting licence" have the meanings given to them by sections 55(1) and 6(1) of the 1963 Act(**a**) respectively, and "licensing authority" is to have the same the meaning as in Schedule 3 to that Act.

Gaming Act 1968: renewal of licences

3.—(1) This article applies to any licence under the 1968 Act which is due to expire in accordance with paragraph 52 of Schedule 2 to that Act(**b**) in the period beginning on 1st September 2006 and ending on 30th August 2007.

(2) If the licence is still in force immediately before it is due to expire, the licensing authority is to be treated as having renewed the licence immediately before it expires.

(3) Section 48(3)(b) and (4)(b) of, and paragraph 63 of Schedule 2 to, the 1968 Act(**c**) (which provide for the payment of a fee on renewal) are not to apply in relation to the renewal of a licence in accordance with paragraph (2).

(4) Where a licence is renewed under paragraph (2)—

(a) it is to be subject to the same restrictions as had effect in relation to the licence before it was renewed, and paragraphs 24 to 26 of Schedule 2 to the 1968 Act are to have effect in relation to the licence as if modified accordingly; and

(b) paragraph 52 of that Schedule is to have effect in relation to the licence as if it provided for it to be in force until the end of 31st August 2007 (unless cancelled before that date under any provision of that Schedule).

(5) Where—

(a) the holder of a licence renewed in accordance with paragraph (2) makes a request in writing to the relevant licensing authority for a copy of the licence as so renewed, and

(b) that request is made in accordance with paragraph (6),

the authority must comply with the request as soon as reasonably practicable.

(6) When making a request under paragraph (5), the holder of the licence must include the licence held by him or, if for any reason that is not reasonably practicable, he must include a written statement—

(a) explaining why it is not reasonably practicable to provide the licence, and

(b) indicating—

(i) the premises to which the licence relates,

(ii) the date on which it was granted or (as the case may be) last renewed before its renewal in accordance with paragraph (2), and

(iii) the date on which it was due to expire before being renewed in accordance with that paragraph.

Gaming Act 1968: circumstances in which a licence is not to be treated as being automatically renewed

4.—(1) Despite the provisions of article 3 (which provide for the automatic renewal of licences under the 1968 Act), the holder of a licence to which that article applies may make an application under paragraph 12 of Schedule 2 to that Act for its renewal; and, subject to the following provisions of this article, where such an application is made paragraphs (2) to (5) of article 3 are not to apply to the renewal of the licence.

(**a**) Amendments have been made to sections 6 and 55 which are not relevant to this Order.

(**b**) Paragraph 52 of Schedule 2 has been amended by the Gaming (Amendment) Act 1982, section 1 and paragraph 11(1) of Schedule 1. Other amendments have been made to Schedule 2, including to paragraphs 12 and 63 of that Schedule, which are not relevant to this Order.

(**c**) Section 48 has been amended by S.I. 2006/543. Other amendments have been made to that section which are not relevant to this Order.

(2) Where an application for renewal is made under paragraph 12 of Schedule 2 to the 1968 Act, paragraphs (2) to (5) of article 3 are still to apply to the renewal of the licence if either paragraph (3) or (4) applies.

(3) This paragraph applies where—

(a) the application for renewal is made later than is required by sub-paragraph (1) of paragraph 12 of that Schedule, and

(b) the licensing authority do not entertain the application in exercise of their powers under sub-paragraph (2) of that paragraph.

(4) This paragraph applies where the application for renewal is withdrawn at any time before any hearing is held by the licensing authority for the purposes of determining the application.

(5) Where a licence to which article 3 applies is renewed on an application made under paragraph 12 of Schedule 2 to the 1968 Act, paragraph 52 of that Schedule is to have effect in relation to the licence as if it provided for the licence to be in force until the end of 31st August 2007 (unless cancelled before that date under any provision of that Schedule).

Gaming Act 1968: renewal of section 34 permits granted in respect of amusement machine premises

5.—(1) This article applies to any permit under section 34 of the 1968 Act (which provides for the use of machines for amusement purposes), granted in respect of amusement machine premises, which is due to expire in accordance with paragraph 18 of Schedule 9 to that Act in the period beginning on 1st September 2006 and ending on 30th August 2007.

(2) Subject to paragraph (7), if the permit still has effect immediately before it is due to expire, the appropriate authority is to be treated as having renewed the permit immediately before it expires.

(3) Section 48(3)(h) and (i) and (4B) of, and paragraph 21 of Schedule 9 to, the 1968 Act(**a**) (which provide for the payment of a fee on renewal) are not to apply in relation to the renewal of a permit in accordance with paragraph (2).

(4) Where—

(a) the holder of a permit renewed in accordance with paragraph (2) makes a request in writing to the appropriate authority for a copy of the permit as so renewed, and

(b) that request is made in accordance with paragraph (5),

the authority must comply with the request as soon as reasonably practicable.

(5) When making a request under paragraph (4), the holder of the permit must include the permit held by him or, if for any reason that is not reasonably practicable, he must include a written statement—

(a) explaining why it is not reasonably practicable to provide the permit, and

(b) indicating—

(i) the premises to which the permit relates,

(ii) the date on which it was granted or (as the case may be) last renewed before its renewal in accordance with paragraph (2), and

(iii) the date on which it was due to expire before being renewed in accordance with that paragraph.

(**a**) Subsection (3)(h) of section 48 was amended by S.I. 1991/2177, 1991/2499 and 1996/1359. Subsections (3)(i) and (4B) of section 48 were inserted by S.I. 1996/1359. An amendment has been made to paragraph 21 of Schedule 9 which is not relevant to this Order.

(6) Where before its renewal in accordance with paragraph (2) the holder of the permit makes an application to the appropriate authority in accordance with paragraph 5(2) of Schedule 9 to the 1968 Act(**a**) for the renewal of the permit—

(a) the appropriate authority may not determine the application before the permit is due to expire;

(b) where the permit is renewed in accordance with paragraph (2), the application is to be treated on and after the permit's renewal as if it were a request made under paragraph (4); and

(c) the requirement to comply with that request is to apply irrespective of whether the application is accompanied by the permit or includes the information specified in paragraph (5).

(7) Paragraphs (2) to (6) are not to apply where before the date on which this Order comes into force—

(a) the holder of the permit applies under paragraph 5(2) of Schedule 9 to the 1968 Act for the renewal of the permit, and

(b) the appropriate authority determine that application.

(8) Paragraph 18 of Schedule 9 to the 1968 Act is to have effect in relation to the renewal of a permit to which this article applies as if it provided for the permit to have effect until the end of 31st August 2007 unless cancelled before that date under section 39 of that Act(**b**).

(9) In this article "appropriate authority", in relation to a permit under section 34 of the 1968 Act, has the meaning given to it (as the case may be) by paragraph 1(b) or (d) of Schedule 9 to the 1968 Act.

Gaming Act 1968: restrictions on the grant of section 34 permits

6.—(1) This article applies to the grant or renewal of permits under section 34 of the 1968 Act by the authority mentioned in paragraph 1(b) or (d) of Schedule 9 to that Act(**c**) 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 section and that Schedule by section 356(3)(g) and (4) of, and Schedule 17 to, the Gambling Act 2005 takes effect for all purposes.

(2) Where the application is made on or after 1st August 2006, the authority may only grant or renew the permit if it relates to amusement machine premises.

(3) Paragraph (2) is without prejudice to article 5.

(4) Where a permit is granted or renewed during the period mentioned in paragraph (1) with respect to premises other than amusement machine premises, it is to cease to have effect on 31st July 2009 (unless it is cancelled before that date under section 39 of the 1968 Act); and paragraph 18 of Schedule 9 to that Act is to have effect in relation to such a permit as if modified accordingly.

Lotteries and Amusements Act 1976: renewal of section 16 permits

7.—(1) This article applies to any permit under section 16 of the 1976 Act(**d**) (which relates to the provision of amusements with prizes at certain commercial entertainments) which is due to expire in accordance with paragraph 15 of Schedule 3 to that Act in the period beginning on 1st September 2006 and ending on 30th August 2007.

(**a**) Amendments have been made to paragraph 5 of Schedule 9 which are not relevant to this Order.
(**b**) Amended by S.I. 1996/1359.
(**c**) Sub-paragraph (b) of paragraph 1 of Schedule 9 has been amended by the Local Government Act 1972 (c.70), section 272(1) and Schedule 30. Sub-paragraph (d) of that paragraph has been amended by the Local Government (Scotland) Act 1973 (c.65), section 187 and paragraph 32 of Schedule 24, and by the Local Government etc. (Scotland) Act 1994 (c.39), section 180(1) and paragraph 78(4) of Schedule 13.
(**d**) Amendments have been made to section 16 which are not relevant to this Order.

(2) Subject to paragraphs (7) and (8), if the permit still has effect immediately before it is due to expire, the appropriate authority is to be treated as having renewed the permit immediately before it expires.

(3) Paragraph 18 of Schedule 3 to the 1976 Act(**a**) (which provides for the payment of a fee on grant or renewal of a permit) is not to apply in relation to the renewal of a permit in accordance with paragraph (2).

(4) Where—

(a) the holder of a permit renewed in accordance with paragraph (2) makes a request in writing to the appropriate authority for a copy of the permit as so renewed, and

(b) that request is made in accordance with paragraph (5),

the authority must comply with the request as soon as reasonably practicable.

(5) When making a request under paragraph (4), the holder of the permit must include the permit held by him or, if for any reason that is not reasonably practicable, he must include a written statement—

(a) explaining why it is not reasonably practicable to provide the permit, and

(b) indicating—

(i) the premises to which the permit relates,

(ii) the date on which it was granted or (as the case may be) last renewed before its renewal in accordance with paragraph (2), and

(iii) the date on which it was due to expire before being renewed in accordance with that paragraph.

(6) Where before its renewal in accordance with paragraph (2) the holder of the permit makes an application to the appropriate authority in accordance with paragraph 4(2) of Schedule 3 to the 1976 Act for the renewal of the permit—

(a) the appropriate authority may not determine the application before the permit is due to expire;

(b) where the permit is renewed in accordance with paragraph (2), the application is to be treated on and after the permit's renewal as if it were a request made under paragraph (4); and

(c) the requirement to comply with that request is to apply irrespective of whether the application is accompanied by the permit or includes the information specified in paragraph (5).

(7) Paragraphs (2) to (6) are not to apply where before the date on which this Order comes into force—

(a) the holder of the permit applies under paragraph 4(2) of Schedule 3 to the 1976 Act for the renewal of the permit, and

(b) the appropriate authority determine that application.

(8) Paragraphs (2) to (6) are also not to apply where—

(a) a resolution is passed by the appropriate authority under paragraph 2(b) of Schedule 3 to the 1976 Act with the effect that the authority will not renew permits under section 16 of that Act in respect of premises of a class which includes the premises to which the permit relates, and

(b) that resolution is in force—

(i) in relation to paragraph (6)(a), when the relevant application is made, or

(ii) in the case of any other provision, when the permit is due to expire.

(**a**) Amended by S.I. 1991/2174.

(9) Paragraph 15 of Schedule 3 to the 1976 Act is to have effect in relation to the renewal of a permit to which this article applies as if it provided for the permit to have effect until the end of 31st August 2007, unless cancelled before that date under section 17(2) of that Act.

(10) In this article, "appropriate authority" is to have the meaning given to it by paragraph 1(1) of Schedule 3 to the 1976 Act(**a**).

Richard Caborn
Minister of State
4th July 2006 Department for Culture, Media and Sport

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes transitional provision in connection with the commencement of the Gambling Act 2005, and in particular makes provision about the grant or renewal of certain licences and permits issued under enactments to be repealed by that Act during the period before the repeal of those enactments.

Schedule 3 to the Betting, Gaming and Lotteries Act 1963 ("the 1963 Act") makes provision for the grant of track betting licences. A track betting licence is required under that Act where facilities for betting are provided on a track other than a horse racecourse. Under paragraph 8 of Schedule 3 to the 1963 Act a track betting licence lasts for 7 years. Article 2 of this Order provides for a new track betting licence to be treated as having been granted where a track betting licence is due to expire in the period between 31 August 2006 and 30 August 2007 (referred to in this Explanatory Note as "the transition period"). The licence is granted when the previous track betting licence expires to the person who held that licence immediately before it expired. The licensing authority must provide the holder with a copy of the new track betting licence if so requested in writing. The new licence is to have effect until 31st August 2007 when it is intended that the 1963 Act will be repealed for all material purposes.

Schedule 2 to the Gaming Act 1968 ("the 1968 Act") makes provision for the grant and renewal of licences under that Act. Licences under the 1968 Act are required under that Act to authorise the provision of gaming in casinos and bingo clubs. Under paragraph 52 of Schedule 2 a licence, unless renewed, expires at the end of the period of one year from the date of grant or renewal. Article 3 of this Order provides for the deemed renewal of licences under the 1968 Act which are due to expire in the transition period. In such a case the licensing authority must provide the holder with a copy of the licence as renewed if so requested by the holder. Article 4 enables

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(**a**) Sub-paragraph (1)(a) of paragraph 1 and connected definitions in sub-paragraph (2) of that paragraph have been amended by the Licensing Act 2003, section 198(1) and paragraphs 62 and 63 of Schedule 6. Sub-paragraph (1)(c) of paragraph 1 (including connected definitions in sub-paragraph (2) of that paragraph have been amended by the Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 (c.55), section 28(1), and paragraph 8 of Schedule 2. The definition of "local authority" in paragraph 1(2), which is relevant for the purposes of paragraph 1(1)(b), has been amended by the Local Government (Wales) Act 1994 (c.19), section 66(6) and paragraph 50(3) of Schedule 16.

applications to be made under Schedule 2 to the 1968 Act for the renewal of a licence which expires in the transition period (so as to enable conditions attached to the licence to be varied). However, in those circumstances the provisions in article 3 for licences to be treated as having been renewed automatically do not apply. Irrespective of whether a licence is renewed under article 3 or on an application under Schedule 2 to the 1968 Act, the licence as renewed is to have effect until 31st August 2007 when it is intended that the relevant provisions of the 1968 Act will be repealed for all material purposes.

Schedule 9 to the 1968 Act makes provision for the grant and renewal of permits under section 34 of that Act. Section 34 provides for the making available of gaming machines in amusement machine premises (within the meaning of section 34(7A)), premises licensed to supply alcohol and other non-gambling premises. Article 5 of this Order provides for the deemed renewal of a section 34 permit granted in respect of amusement machine premises where the permit is due to expire in the transition period. In such a case the appropriate authority must provide the holder with a copy of the permit as renewed if so requested by the holder. The permit as renewed is to have effect until 31st August 2007.

Article 6 of this Order makes provision about the grant or renewal of section 34 permits, during the period between 1 August 2006 and the date on which the provisions of the 1968 Act relating to the grant or renewal of such permits are repealed for all purposes. Article 6 only applies to permits granted or renewed by the appropriate authority mentioned in paragraph 1(b) or (d) of Schedule 9 to the 1968 Act, and therefore does not apply to permits in respect of premises licensed to supply alcohol. Under article 6, where the application is made on or after 1 August 2006 the appropriate authority may only grant or renew the permit if it relates to amusement machine premises. Article 6 also makes provision about the period of any permit granted or renewed in respect of premises other than amusement machine premises. Any such permit, where granted or renewed in the period between 1 August 2006 and the date on which the provisions of the 1968 Act relating to the grant or renewal of section 34 permits are repealed for all purposes, is to cease to have effect on 31st July 2009.

Schedule 3 to the Lotteries and Amusements Act 1976 ("the 1976 Act") makes provision for the grant and renewal of permits under section 16 of that Act. Section 16 is concerned with permitting amusements with prizes where those amusements constitute a lottery or gaming. Article 7 of this Order provides for the deemed renewal of permits granted under section 16 where the permit is due to expire in the transition period. In such a case the appropriate authority must provide the holder with a copy of the permit as renewed if so requested by the holder. The permit as renewed is to have effect until 31st August 2007 when it is intended that the relevant provisions of the 1976 Act will be repealed for all material purposes. The provisions of article 7 do not apply however where a resolution has been passed by the appropriate authority that it will not renew permits granted in respect of the relevant class of premises.

A Regulatory Impact Assessment of the costs and benefits of this Order is available from the DCMS website (www.culture.gov.uk) and from the Gambling and National Lottery Licensing Division, Department for Culture, Media and Sport, 2-4 Cockspur Street, London SW1Y 5DH, telephone 020 7211 6479

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