

Report Title: **Setting Fees under the Gambling Act 2005- TEMPORARY USE NOTICES**

Forward Plan reference number (if applicable): **Not applicable**

Report of: **Assistant Director (Enforcement) Robin Payne**

Wards(s) affected: **All**

Item for decision

1. Purpose

To report and consult with Members on setting fees for the new regulations concerning Temporary Use Notices under the Gambling Act 2005.

The Government has given maximum figures and each Authority must set its own figure not exceeding the maximum.

The fees will be for

- i) fee for making an application for a Temporary Use Notice
- ii) The fee for replacing a lost or stolen notice.

2. Recommendations

2.1 That the Committee:

- (i) Agree the fees to enable the Authority to accept such applications.

Report Authorised by: **Robin Payne , Assistant Director**



Contact Officer: Keith Betts , Commercial Group manager , Enforcement Service , x5525

3. Executive Summary

The Gambling Act 2005 brings in major reforms to the structure of the law on gambling in this Country. It will bring in considerable responsibilities for local authorities in their role as the appropriate 'Licensing Authorities'. Every Licensing Authority must set its own fees within the maximums issued by The Department of Culture Media and Sports (DCMS) in relation to Temporary Use Notices. This report seeks Members decision on the proposed fees for 2007/08 required under the Gambling Act 2005.

4. Reasons for any change in policy or for new policy development (if applicable)

The fees support the work of the Licensing Service to promote the licensing objectives of the Gambling Act 2005. The licensing authority must carry out its functions with a view to promoting these licensing objectives. The licensed gambling industry in the Borough depends on local administration, inspection and enforcement to ensure that all local businesses continue to operate within the law and are able to understand the new legal requirements.

5. Local Government (Access to Information) Act 1985

Background papers used for the preparation of this report as set out below can be inspected by contacting the Licensing Manager, Daliah Barrett on 8489 8232:

(i) Guidance to Local Authorities under The Gambling Act 2005 issued by the Gambling Commission and (ii) The Gambling Act 2005.

6. Background

- 6.1 Major reforms are being implemented under the Gambling Act 2005 which contains a new regulatory system to govern the provision of gambling in Great Britain. The Act gives major responsibilities to local authorities in their role as the 'Licensing Authority' to permit commercial gambling, a role previously carried out largely by the Licensing Justices (Magistrates). Every Licensing Authority had to prepare and publish a statement of the principles that they propose to apply in exercising their functions under the Act during the three year period to which the policy applies. Haringey's Statement of Gambling Policy was adopted by full Council with effect from 15 January 2007.
- 6.2 The Gambling Act 2005 introduces a new system of regulation of all gambling in Great Britain, other than the National Lottery and spread betting. It repeals The Betting, Gaming and Lotteries Act 1963, The Gaming Act 1968 and The Lotteries and Amusements Act 1976. The 2005 Act provides for local authorities, called "licensing authorities" in the Act, to license premises within their areas which are used to provide facilities for commercial gaming. The Act also introduces a unified regulator for gambling, the Gambling Commission. The Commission will licence and regulate virtually all commercial gambling in Great Britain, including casinos, bingo, betting amusement arcades, larger lotteries and the manufacture, supply and use of gaming machines and gambling software.
- 6.3 The Act sets out three licensing objectives which licensing authorities and The Gambling Commission are required to pursue:
- To prevent gambling from being a source of crime and disorder
 - To ensure that gambling is conducted in a fair and open way

- To protect children and vulnerable persons from being harmed or exploited by gambling.

6.4 As part of the new regime the Act provides for the following three main types of licence:

- **Personal licences** these will be issued by The Gambling Commission and it will be a condition of each operating license that at least one person who holds a specified "management office" in relation to the operating licence must hold a personal licence.
- **Operating licences**, these will be held by people who wish to provide facilities for commercial gambling and in general it will be an offence to provide such facilities without an operating licence. Operating licences will be issued and overseen by the Gambling Commission.
- **Premises Licences** these will be held by people who wish to use premises to provide facilities for commercial gaming or betting and in general it will be an offence to use premises for such a purpose without a premises license. A premises license may only be issued to a person who holds a valid operating licence. Premises Licences will be issued and overseen by licensing authorities.

6.5 Licences will be issued for a number of different premises types. These are:

Casinos
 Bingo Premises
 Adult gaming centres
 Family entertainment centres
 Betting office (i.e. betting premises excluding tracks)
 Tracks

In addition, this authority will have responsibility for the following:

Temporary Use Notices (for temporary events)
 Provisional Statements
 Unlicensed Family Entertainment Centres
 Lottery registration documents
 Club gaming/gaming machine permits
 Permits for gaming machines on alcohol licensed premises.

7 Rules for Setting Fees

7.1 The 2005 Act gives The Secretary of State the power to make regulations prescribing the fees payable to the licensing authority for gambling premises licences and permits as well as other miscellaneous fees. In the case of Temporary Use Notices these are these are The Gambling Act 2005 (Temporary Use Notices) Regulations 2007 which came into force on 1st December 2007. Members should note that fees for permits will be set centrally and will be dealt with in separate Regulations. Licensing Authorities have no discretion in regard to fees for permits.

7.2 Temporary Use Notices under Part 9 of the Gambling Act 2005 make provision for the use of premises for gambling where there is no premises license in respect of those

premises, but an operating license holder wishes to use the premises, temporarily, for providing facilities for gambling.

7.3 Temporary Use Notices are endorsed by the Licensing Authority and will authorise the provision of gambling activities temporarily on specific premises. The nature of the gambling activities that can be provided under such notices is controlled by the Secretary of State in regulations. A particular set of premises can only be the subject of a Notice for a maximum of 21 days in any 12 month period. The Notice must be given 3 months prior to the event.

7.4 The Act does devolve to licensing authorities a very limited discretion to set fees for temporary use notice applications. This discretion is subject to the maximum fee prescribed in the regulations. The Regulations prescribe that

- i) the maximum fee for a temporary use notice shall be £500
- ii) the maximum fee for a new endorsed copy of a lost or stolen notice shall be no more than £25.

7.5 The costs of these new responsibilities will be met by applying the maximum fees. This involves the Licensing Authority needing to consult with the Gambling Commission, The Metropolitan Police and Revenue and Customs.

8. Recommendations

8.1 That the Committee:

- (i) Agrees to set the fees for Temporary Use Notices to £500 for an application and £25 for the endorsement of a replacement notice.

9. Comments of the Chief Finance Officer

9.1 The Councils external income policy states that the income should (at least) cover the full cost, including all overheads, of the service.

10. Comments of the Head of Legal Services

10.1 The Legal Service has been consulted in the preparation of this report and the legal implications have been incorporated.

11. Equalities Implications

11.1 It is clearly seen by Government that gambling can impact on the lives of all in society and particularly the young and those people who may be vulnerable to gambling activities. It is a primary objective of both the Act and the local policy statement that such persons are protected. The Gambling Act supports national and local guidance in promoting the three licensing objectives, including: preventing gambling from being a source of crime or disorder, being associated with crime and disorder or being used to support crime.

12. Use of Appendices / Tables / Photographs

Appendix 1 – The Gambling Act 2005 (Temporary Use Notices) Regulations 2007.

APPENDIX 1

STATUTORY REGULATIONS TEMPORARY USE NOTICE

Statutory Instrument 2007 No. 3157

The Gambling Act 2005 (Temporary Use Notices) Regulations 2007

© Crown Copyright 2007

Statutory Instruments printed from this website are printed under the superintending authority of the Controller of HMSO being the Queen's Printer of Acts of Parliament.

The legislation contained on this web site is subject to Crown Copyright protection. It may be reproduced free of charge provided that it is reproduced accurately and that the source and copyright status of the material is made evident to users.

It should be noted that the right to reproduce the text of Statutory Instruments does not extend to the Queen's Printer imprints which should be removed from any copies of Statutory Instruments which are issued or made available to the public. This includes reproduction of the Statutory Instrument on the Internet and on intranet sites. The Royal Arms may be reproduced only where they are an integral part of the original document.

The text of this Internet version of the Statutory Instrument which is published by the Queen's Printer of Acts of Parliament has been prepared to reflect the text as it was printed. A print version is also available and is published by The Stationery Office Limited. **The Gambling Act 2005 (Temporary Use Notices) Regulations 2007**, ISBN 9780110789446. The print version may be purchased by clicking [here](#). Braille copies of this Statutory Instrument can also be purchased at the same price as the print edition by contacting TSO Customer Services on 0870 600 5522 or e-mail: customer.services@tso.co.uk.

Further information about the publication of legislation on this website can be found by referring to the [Frequently Asked Questions](#).

To ensure fast access over slow connections, large documents have been segmented into "chunks". Where you see a "continue" button at the bottom of the page of text, this indicates that there is another chunk of text available.

STATUTORY INSTRUMENTS

2007 No. 3157

BETTING, GAMING AND LOTTERIES

The Gambling Act 2005 (Temporary Use Notices) Regulations 2007

<i>Made</i>	<i>1st November 2007</i>
<i>Laid before Parliament</i>	<i>7th November 2007</i>
<i>Coming into force</i>	<i>1st December 2007</i>

The Secretary of State makes the following Regulations in exercise of the powers

conferred by sections 212, 215(2), 216, 219(3)(b) and (8), 224(4), 227(2), (3) and (6) and 355(1) of the Gambling Act 2005[1].

Citation, commencement, application and interpretation

1. —(1) These Regulations may be cited as the Gambling Act 2005 (Temporary Use Notices) Regulations 2007 and shall come into force on 1st December 2007.

(2) Subject to paragraph (3), these Regulations apply to England and Wales and Scotland.

(3) Regulation 7(1) applies only to temporary use notices given in respect of premises in England and Wales.

(4) In these Regulations "the Act" means the Gambling Act 2005.

Activities which may be specified in a temporary use notice

2. —(1) This regulation specifies for the purposes of section 215(2)(a) of the Act the activities which may be specified in a temporary use notice under Part 9 of the Act.

(2) The activities are providing facilities for any form of equal chance gaming[2] where those participating in the gaming are taking part in a competition which is intended to produce a single, overall winner.

(3) In paragraph (2) the reference to providing facilities for equal chance gaming does not include providing such facilities in circumstances where any person participating in the gaming does so by means of a gaming machine[3].

Form and content of a temporary use notice

3. —(1) Subject to paragraph (2), a temporary use notice under Part 9 of the Act must be in the form, and contain the information, specified in Part 1 of Schedule 1.

(2) A temporary use notice given in respect of a vessel must be in the form, and contain the information, specified in Part 2 of Schedule 1.

(3) This regulation is subject to regulation 5.

Form and content of a counter-notice

4. Subject to regulation 5, a counter-notice under Part 9 of the Act must be in the form, and contain the information, specified in Schedule 2.

Matters not required to be included in a notice

5. —(1) Where matters are included in square brackets in any form in Schedules 1 and 2, 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 temporary use notice or a counter-notice under Part 9 of the Act 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 temporary use notice, the licensing authority to whom the notice is given, and

(b) in relation to a counter-notice, the licensing authority by whom the notice is given.

Endorsement of temporary use notices

6. —(1) This regulation prescribes for the purposes of each of subsections (2)(a) and (3)(a) of section 227 of the Act the manner in which the copy of a temporary use notice submitted under section 219(3)(a) of the Act is endorsed.

(2) The copy of the notice is endorsed by the licensing authority to whom it is given completing the section of the notice headed "Endorsement of notice by licensing authority".

Fees in connection with temporary use notices

7. —(1) The fee payable under section 219(3)(b) of the Act on giving a temporary use notice shall be of such amount not exceeding £500 as may be determined by the licensing authority to whom the notice is given.

(2) The fee payable under section 227(6)(a) of the Act for the replacement of an endorsed copy of a temporary use notice—

(a) where the licensing authority responsible for issuing the copy of the notice is in England or Wales, shall be of such amount not exceeding £25 as the licensing authority may determine; or

(b) where the licensing authority responsible for issuing the copy of the notice is in Scotland, shall be £25.

Gerry Sutcliffe

Parliamentary Under Secretary of State
Department for Culture, Media and Sport

1st November 2007

SCHEDULE 1

Regulation 3

Form and content of a temporary use notice

PART 1

Form and content of temporary use notice applying to premises other than a

vessel

[SPACE FOR LICENSING AUTHORITY LOGO ETC.]

**Gambling Act 2005 - Temporary Use Notice
(for premises other than vessels)**

Notice is hereby given under Part 9 of the Gambling Act 2005 that:
[Insert the name and address of the person or organisation giving the notice]

.....
.....
.....

intends to use the following premises:
[Identify the premises giving an address and postcode]

.....
.....
.....
.....

for carrying on the following activities:
[Indicate the type of gaming which will take place under the notice]

.....
.....
.....

during the following period:

Start date	End date

Additional information

1. Please describe the nature of the premises to which the notice relates:
[Where the activities to be authorised by the notice are to take place only in a part of the premises, include a description of the nature of the part of the premises in which the activities are taking place and its location within the premises.]

.....

.....

.....

.....

.....

.....

2. Please describe the nature of the event which is to take place (including the number of persons who are expected to participate in the event):

.....

.....

.....

.....

.....

3. Please give for each day of the period of the notice the times when activities are to begin and end.

Date	Start time	Finish time

[Use additional sheets if necessary. These should be headed "Additional information about times when premises are to be used under the notice", and attached to the notice.]

4. Please give the operating licence number of the person or organisation giving the notice:

.....

5(a) Please give the name of a person who is responsible for the conduct of the event to which the notice relates, and who will be available to be contacted during the course of the event:

.....

5(b) Please specify that person's role or title in connection with the event:

.....

5(c) Please give a telephone number at which that person can be contacted when the event is taking place:

.....

6(a) Have any activities taken place, or will any activities take place, on the premises under any other temporary use notice during the period of 12 months ending on the last day of the period specified in this notice?

Yes No

6(b) Where the answer to question 6(a) is "yes", give the dates on which such activities have taken or will take place:

Start date	End date	Number of days

[Use additional sheets if necessary. These should be headed "Additional information on previous notice periods", and attached to the notice.]

This notice is given on:

[Specify the date on which the notice is given. This is the date on which it is sent or delivered to the licensing authority.]

.....

Declarations and Checklist (please tick or check)

I confirm that, to the best of my knowledge, the information contained in this notice is true. I understand that it is an offence under section 342 of the Gambling Act 2005 without reasonable excuse to give information which is false or misleading in, or in relation to, this notice.

Checklist:

- The date on which this notice is given is more than 3 months before the date on which the activities to which this notice relates are due to start
- Payment of the appropriate fee has been made/is enclosed
- I understand that premises cannot be used under temporary use notices for more than 21 days in any 12 month period. I confirm that the notice will not lead to this limit being exceeded
- I understand that each of the following persons and organisations must be given a copy of the notice and that they must receive it no later than 6 days after the date on which it is sent or delivered to the licensing authority:
 - The Gambling Commission,
 - The chief officer of police, or in Scotland the chief constable of the police, for any area in which the premises are wholly or partly situated, and
 - The Commissioners for Her Majesty's Revenue and Customs.

Signature

Signature of the person giving the temporary use notice, or signature of the solicitor or other duly authorised agent acting on behalf of the person or organisation giving the notice. If you are signing on behalf of the person or organisation giving the notice, please state in what capacity:

Signature:

Print Name:

Date: Capacity:.....

[Where the notice is given in an electronic form, the signature should be generated electronically and should be a copy of the person's written signature.]

<p>Contact Details</p> <p>The following person can be contacted about this temporary use notice:</p> <p>..... Tel:.....</p> <p>The postal and/ or e-mail address for any correspondence associated with the notice is:</p> <p>.....</p> <p>.....</p> <p>.....</p>
<p>ENDORSEMENT OF NOTICE BY LICENSING AUTHORITY</p> <p>(For Licensing Authority use only)</p> <p>Endorsed by: <i>[Specify the name of the licensing authority by whom the notice is endorsed in accordance with section 227 of the Gambling Act 2005.]</i></p> <p>.....</p> <p>Signed on behalf of the licensing authority:</p> <p>Signature:.....</p> <p>Name:.....</p> <p>Date: Capacity:.....</p>

PART 2

Form and content of temporary use notices applying to a vessel

[SPACE FOR LICENSING AUTHORITY LOGO ETC.]

Gambling Act 2005 - Temporary Use Notice (Vessel)

Notice is hereby given under Part 9 of the Gambling Act 2005 that:
[Insert the name and address of the person or organisation giving the notice]

.....
.....
.....

intends to use the following vessel:
[Give the name of the vessel]

.....

for carrying on the following activities:
[Indicate the type of gaming which will take place under the notice]

.....
.....
.....
.....

during the following period:

Start date	End date

Additional information

1. Please give the country in which the vessel is registered:

.....

2(a) Please give the place in the licensing authority's area at which the vessel is situated or moored: *[Give an address with postcode if available]*

.....

.....

2(b) Please confirm by ticking or checking the appropriate box whether the place stated in question 2(a) is:

(i) a fixed place in or on water at which the vessel is situated; or

(ii) a place at which the vessel is permanently moored; or

(iii) a place at which the vessel is habitually moored; or

(iv) in any other case, a place at which the vessel is moored or is likely to be moored, or a place in the United Kingdom nearest to any place at which a vessel is or is likely to be, while activities are carried on in the vessel in reliance on this notice.

2(c) Where either sub-paragraph (iii) or (iv) of question 2(b) has been ticked or checked, please indicate all the places where the vessel will be during the whole of the period of time covered by the notice.

.....

.....

.....

.....

.....

3. Please describe the nature of the event which is to take place (including the number of persons who are expected to participate in the event):

.....

.....

.....

.....

.....

4. Please indicate whether the activities to be authorised by the notice are to take place only in a part of the vessel; and, if so, please include a description of the part in which the activities are taking place and its location within the vessel:

.....

.....

.....

.....

.....

.....

5. Please give for each day of the period of the notice the times when activities are to begin and end.

Date	Start time	Finish time

[Use additional sheets if necessary. These should be headed "Additional information about times when premises are to be used under the notice", and attached to the notice.]

6. Please give the operating licence number of the person or organisation giving the notice:

.....

7(a) Please give the name of a person who is responsible for the conduct of the event to which the notice relates, and who will be available to be contacted during the course of the event:

.....

7(b) Please specify that person's role or title in connection with the event:

.....

7(c) Please give a telephone number at which that person can be contacted when the event is taking place:

.....

8(a) Have any activities taken place, or will any activities take place, on the premises under any other temporary use notice during the period of 12 months ending on the last day of the period specified in this notice?

Yes No

8(b) Where the answer to question 8(a) is "yes", give the dates on which such activities have taken or will take place:

Start date	End date	Number of days

[Use additional sheets if necessary. These should be headed "Additional information on previous notice periods", and attached to the notice.]

This notice is given on:

[Specify the date on which the notice is given. This is the date on which you send or deliver it to the licensing authority.]

.....

Declarations and Checklist (please tick or check)

I confirm that, to the best of my knowledge, the information contained in this notice is true. I understand that it is an offence under section 342 of the Gambling Act 2005 without reasonable excuse to give information which is false or misleading in, or in relation to, this notice.

Checklist:

- The date on which this notice is given is more than 3 months before the date on which the activities to which this notices relates are due to start
- Payment of the appropriate fee has been made/is enclosed
- I understand that premises cannot be used under temporary use notices for more than 21 days in any 12 month period. I confirm that the notice will not lead to this limit being exceeded
- I understand that each of the following persons and organisations must be given a copy of the notice and that they must receive it no later than 6 days after the date on which it is sent or delivered to the licensing authority:
 - The Gambling Commission,
 - The chief officer of police, or in Scotland the chief constable of the police, for any area in which the premises are wholly or partly situated, and
 - The Commissioners for Her Majesty's Revenue and Customs

<p>Signature</p> <p>Signature of the person giving the temporary use notice, or signature of the solicitor or other duly authorised agent acting on behalf of the person or organisation giving the notice. If you are signing on behalf of the person or organisation giving the notice, please state in what capacity.</p> <p>Signature:</p> <p>Print Name:</p> <p>Date: Capacity:</p> <p><i>[Where the notice is given in an electronic form, the signature should be generated electronically and should be a copy of the person's written signature.]</i></p>
<p>Contact Details</p> <p>The following person can be contacted about this temporary use notice:</p> <p>..... Tel:</p> <p>The postal and/ or e-mail address for any correspondence associated with the notice is:</p> <p>.....</p> <p>.....</p> <p>.....</p>
<p>ENDORSEMENT OF NOTICE BY LICENSING AUTHORITY</p> <p>(For Licensing Authority use only)</p> <p>Endorsed by:</p> <p><i>[Specify the name of the licensing authority by whom the notice is endorsed in accordance with section 227 of the Gambling Act 2005.]</i></p> <p>.....</p> <p>Signed on behalf of the licensing authority:</p> <p>Signature:</p> <p>Name:</p> <p>Date: Capacity:</p>

SCHEDULE 2

Regulation 4

Form and content of a counter-notice

[SPACE FOR LICENSING AUTHORITY LOGO ETC.]

COUNTER-NOTICE
(Given in response to a temporary use notice under Part 9 of the Gambling Act 2005)

This counter-notice is given under section 224 of the Gambling Act 2005 and relates to a temporary use notice given onin respect of the following premises:

[Identify the premises to which the temporary use notice applies, giving where applicable an address and postcode]

.....
.....
.....

The temporary use notice was given by the following person or organisation:
[Give the name and address of the person or organisation who gave the temporary use notice]

.....
.....
.....

The temporary use notice provided for the premises to be used for the following activities:

.....
.....
.....

during the following period:

Start date	End date

The licensing authority have decided that the temporary use notice referred to in this counter-notice: *[tick or check the box or boxes which apply, and give any additional information as appropriate]*

- Is not to have effect
- Is to have effect only in respect of the following activities:
.....
- Is to have effect only during the following period:

Start date	End date
- Is to authorise the activities to take place only at the following times of day:

Date	Start time	Finish time
- Is to have effect subject to the activities being carried out in accordance with the following condition(s) attached in accordance with section 224(3)(d) of the Gambling Act 2005:
.....
.....
.....
.....

This decision has been taken by the licensing authority for the following reasons:
.....
.....
.....

Signed on behalf of the licensing authority:	
Signature:	
Print Name:	
Date:	Capacity:

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision in connection with temporary use notices under Part 9 of the Gambling Act 2005 ("the Act"). Part 9 enables a person holding an operating licence to give a temporary use notice in respect of premises. The effect of the notice is to authorise the premises to be used during the period specified in the notice for carrying on gambling activities without an offence being committed under section 37 of the Act (which makes it unlawful to use premises for providing facilities for gambling without the appropriate premises licence).

Regulation 2 prescribes for the purposes of section 215(2)(a) of the Act the activities which may be specified in a temporary use notice. The activities are providing facilities for any form of equal chance gaming where those participating in the gaming are taking part in a competition which is intended to produce a single, overall winner. But this does not include equal chance gaming where any person is participating by means of a gaming machine.

Regulation 3 and Schedule 1 prescribe the form of a temporary use notice and the information to be contained in it. Two forms are prescribed: the form in Part 1 of Schedule 1 is to be used for premises other than vessels, and the form in Part 2 of Schedule 1 is to be used for vessels.

Regulation 4 and Schedule 2 prescribe the form of a counter-notice under Part 9 of the Act.

Regulation 5 makes further provision about the information to be included in a temporary use notice or a counter-notice under Part 9 of the Act.

Regulation 6 makes provision about the manner in which a temporary use notice submitted to a licensing authority is to be endorsed by the authority

under section 227(2) or (3) of the Act.

Regulation 7 makes provision about fees in connection with temporary use notices. Paragraph (1) (which applies to England and Wales only) makes provision about the amount of the fee which is to accompany a temporary use notice given to a licensing authority. It provides for the fee to be of such amount as may be determined by the licensing authority up to a maximum of £500. Paragraph (2) prescribes the amount of the fee which is payable under section 227(6) where a licensing authority make arrangements for the replacement of an endorsed temporary use notice which has been lost, stolen or damaged. In England and Wales, the fee is to be of such amount as may be determined by the licensing authority up to a maximum of £25; and in Scotland the fee is £25.

Notes:

[1] 2005 c.19; see sections 216(2) and 224(8) for the definition of "prescribed" where used in section 216(1) and 224(4).[back](#)

[2] See section 8 of the Gambling Act 2005 for the definition of "equal chance gaming".[back](#)

[3] See section 235 of the Gambling Act 2005 for the definition of "gaming machine".[back](#)

ISBN 978 0 11 078944 6

[Other UK SIs](#) | [Home](#) | [National Assembly for Wales Statutory Instruments](#) | [Scottish Statutory Instruments](#) | [Statutory Rules of Northern Ireland](#)

We welcome your [comments on this site](#)

© Crown copyright 2007

Prepared 9 November 2007

EXPLANATORY MEMORANDUM TO
THE GAMBLING ACT 2005 (TEMPORARY USE NOTICES) REGULATIONS 2007

2007 No. 3157

1. This explanatory memorandum has been prepared by the Department for Culture, Media and Sport and is laid before Parliament by Command of Her Majesty.

2. **Description**

2.1 These Regulations concern temporary use notices issued under Part 9 of the Gambling Act 2005 (“the Act”). The Regulations indicate the activities which may be specified in a temporary use notice, and prescribe the form and content of a temporary use notice and of a counter-notice issued by a licensing authority in response to a temporary use notice. The Regulations also make provision about the endorsement of a temporary use notice by the relevant licensing authority and about the fee which is to be paid on the giving of a temporary use notice.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 None.

4. **Legislative Background**

4.1 The Act establishes a new system of regulation for all gambling in Great Britain, other than the National Lottery and spread betting. The Act establishes a new regulator for gambling, the Gambling Commission, and a new licensing regime for commercial gambling. As part of the licensing regime, the Act provides for three main types of permission: operating and personal licences which are issued by the Gambling Commission, and premises licences which are issued by licensing authorities. In England and Wales, licensing authorities are the local authorities and, in Scotland, licensing boards.

4.2 Although generally a premises licence is required to authorise the use of premises for providing facilities for gambling, Part 9 of the Act enables premises to be used for short periods without a premises licence. Part 9 enables the holder of an operating licence to give a temporary use notice about premises to the licensing authority in which the premises are situated. The effect of the notice is to enable the premises to be used for providing facilities for gambling for a limited period of time as specified in the notice. Section 218 of the Act restricts to 21 days the amount of time that premises may be used under a temporary use notice in any period of 12 months. A notice must be given at least 3 months before it is to take effect.

4.3 Section 215 makes provision about the activities which may be authorised by a temporary use notice. That section provides for the activities to be prescribed in regulations made by the Secretary of State. Reference was made to the exercise of these powers in the memorandum on the Gambling Bill given by the Department to the House of Lords’ Select Committee on Delegated Powers and Regulatory Reform on 27 January 2005 (annexed to the Committee’s 11th Report of Session 2004-05). At paragraph 186 of that memorandum it was stated:

“In the first instance, the Government intends to use this power to make possible the temporary offering of some forms of gaming: in particular poker tournaments or competitions, which would generally take place in venues such as hotels. The requirement that the organiser holds an operating licence provides a necessary safeguard. Thereafter, further types of gambling may be added, if there is a demand and there is no regulatory risk attached to the addition”.

The Regulations are consistent with that statement in providing for a temporary use notice to be

capable of authorising the provision of facilities for equal chance gaming where the participants are taking part in a competition intended to produce a single, overall winner.

4.4 Sections 219 to 228 of the Act set out the procedure relating to the giving of temporary use notices. Where a person gives a temporary use notice it must be accompanied by the prescribed fee. The person giving the notice to the licensing authority is also required also to give a copy to the Gambling Commission, the chief of police for the area and HM Revenue and Customs. The licensing authority or any of these bodies may give a notice of objection in response to the temporary use notice. Where notice of objection is given the licensing authority must, unless all parties agree otherwise, hold a hearing into the temporary use notice. Following the hearing, the licensing authority may give a counter-notice providing for the temporary use notice not to have effect or to have effect subject to modification. A counter-notice must include the licensing authority's reasons for giving it. Where no counter-notice is given, the licensing authority must endorse the temporary use notice.

4.5 The Act provides for certain matters relating to the procedure for temporary use notices to be set out in subordinate legislation. These include prescribing the form and content of a temporary use notice and a counter-notice, specifying the manner in which a temporary use notice is to be endorsed, the fee to accompany a temporary use notice and the fee for obtaining a replacement copy where a notice is lost or damaged etc. The Regulations make provision for each of these things.

5. Territorial Extent and Application

5.1 For the most part these Regulations apply to the whole of Great Britain. Regulation 7(1) (which makes provision about the fee to accompany a temporary use notice when it is given) applies only to England and Wales. In relation to Scotland, the power to make this provision is exercisable by the Scottish Ministers.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 The purpose of the Act is summed up by its licensing objectives, which are:

- Preventing gambling from being a source of crime and disorder, being associated with crime and disorder or being used to support crime and disorder;
- Ensuring that gambling is conducted in a fair and open way;
- Protecting children and other vulnerable persons from being harmed or exploited by gambling.

The Act establishes a new licensing regime for premises offering facilities for gambling in Great Britain, in which licences are granted by local licensing authorities (local authorities in England and Wales and licensing boards in Scotland) and each premises must meet any conditions attached to its licence. Though temporary use notices differ from a premises licence, they still relate to premises and so dealing with the process is the responsibility of licensing authorities or boards. Some similar principles apply such as maintaining a register, dealing with representations from specified authorities and determining a fee.

7.2 Part 9 of the Act essentially represents a new permission for gambling in Great Britain; an equivalent permission did not exist in earlier gambling legislation. Whilst the Act does not specify the types of gambling for which premises can be used under a temporary use notice, section 215 allows the Secretary of State to prescribe the activities permitted by such a notice. The consultation paper issued by the Department proposed to restrict the activities permitted under a temporary use notice to equal chance gaming taking place in the context of a tournament, and the Regulations have been drafted on this basis. The Department considered that it was reasonable in the case of such one-off events for the operator exceptionally to be relieved from the requirement to obtain a premises licence. However, the Department considered such an exemption was only appropriate for equal chance gaming. Other forms of gambling, such as gaming machines or casino games, which are liable to present greater risks to the licensing objectives, or in terms of problem gambling have been excluded. Although the operator giving the notice and conducting the activity would be subject to the regulatory conditions attached to their operating licence, the Department considered that it was important in these other cases to retain the protections afforded by the premises licensing system under Part 8 of the Act. These include conditions automatically attached to the premises licence through regulations made by the Secretary of State which control the way in which the premises are used for gambling. Over time, the Department will monitor the situation and will consider making further regulations under section 215 of the Act to extend the scope of activities which can be permitted by a temporary use notice, if there is a perceived need or benefit in doing so and the associated risks are deemed acceptable.

7.3 These Regulations prescribe the form and content of a temporary use notice and counter notice. The notices follow the format of the forms prescribed for premises licence applications under the Gambling Act 2005 (Premises Licences and Provisional Statements) Regulations 2007 (S.I. 2007/459). They aim to gather the information required by the Act in a clear and concise manner, with minimum burden to both the person giving the notice and the licensing authority.

7.4 A separate form of temporary use notice has been prescribed for vessels as a licensing authority will require slightly different information for a vessel, including information about their mooring within the licensing authority's area and about any journeys they intend to undertake whilst the notice is in force.

7.5 Section 234 of the Act obliges a licensing authority to keep a register of temporary use notices given to them and make that register available to the public. The Act allows the Department to make regulations about the form of the register and the manner in which it is maintained. However, the Department has chosen not to do so following consultation responses received on this issue when consulting on the Gambling Act 2005 (Premises Licences and

Provisional Statements) Regulations 2007. Respondents explained that licensing authorities already maintain a register under other licensing regimes and differ in their capabilities and working practices. A blanket approach would therefore be inappropriate and could result in an unfair burden, which could impact on the industry in terms of re-couping the related cost.

7.6 The Department has followed the same approach taken for premises licence fees and set the maximum fee for a temporary use notice in these regulations for England and Wales. Subject to this maximum, each individual authority will determine the fee payable to them on a cost recovery basis.

7.7 The fee maximum has been set at £500 for England and Wales. The fee covers the following procedural checks:

- The person giving the notice holds a valid operating licence;
- The gambling offered is a permitted activity;
- The number of days proposed will not exceed the 21 day limit within a 12 month period for that premises;
- The relevant contact details have been supplied for the activity.

It also needs to cover any assessment and compliance visits to the premises that may need to take place, updating the local register and dealing with any objections the relevant authorities may have. In cases where objections have been received, the licensing authority will need to hold a hearing (unless all parties confirm it is not necessary and come to a satisfactory agreement).

Consultation

7.8 The Department consulted on these regulations for the recommended 12 week period, from 31st May to 23rd August 2007. A total of 9 responses were received from representatives of the gambling industry, licensing authorities and other groups including the police. A draft temporary use notice and counter-notice were included with the consultation. All comments on the form of the notices were given due consideration and amendments were made where appropriate. Respondents to the consultation were in agreement with the Departments proposals and did not raise any controversial points.

7.9 The Department will make the forms of the notice and counter notice available to licensing authorities in Word template and they in turn will make the appropriate forms available to applicants.

Guidance

7.10 Since these regulations include minimal extra provisions and the procedure is largely defined on the face of the Act, the Department has taken the view that the most practical solution is to incorporate guidance into the forms of the notice and counter notice. The regulations will be publicised, as all regulations are, in the Gambling Commission regular bulletin, which has a wide circulation list.

8. Impact

8.1 An Impact Assessment is attached to this memorandum.

9. Contact

Jennifer Smith at the Department for Culture, Media and Sport (Tel: 0207 211 6420 or e-mail: Jennifer.smith@culture.gsi.gov.uk) can answer any queries regarding the instrument.

Summary: Intervention & Options

Department /Agency: Department for Culture, Media and Sport	Title: Impact Assessment of The Gambling Act 2005 (Temporary Use Notices) Regulations 2007	
Stage: final	Version: 1	Date: 1 November 2007
Related Publications:		

Available to view or download at:

<http://www>.

Contact for enquiries: Jennifer Smith, DCMS

Telephone: 0207 211 6420

What is the problem under consideration? Why is government intervention necessary?

The Department intends to lay regulations under the Gambling Act 2005, to bring Part 9 of the Act into force. Part 9 concerns Temporary use notices (TUN) which permit a premises not usually licensed for the provision of gambling to be used for a short period of time. The Department needs to implement TUN in a way that benefits the industry but does not jeopardise society. The Act itself largely defines the procedures requires the Secretary of State to prescribe the types of gambling permitted by such a notice and the forms of notices involved.

What are the policy objectives and the intended effects?

Part 9 of the Act represents a new permission for gambling in the UK, an equivalent permission does not exist in earlier gambling legislation. The Act gives the Department a choice in considering the types of gambling to be permitted by a TUN, and this must be considered against the perceived risk of problem gambling. The forms of the notice and counter notice included must be user friendly and gather the information required by the Act in a clear and concise manner, with minimum burden to both the person giving the notice and the licensing authority.

What policy options have been considered? Please justify any preferred option.

The Department could have chosen to prescribe a wide range of gambling as being permitted by a TUN. However this would have presented risks to the licensing objectives, in particular that related to protecting children and young persons and the vulnerable from being exploited or harmed by gambling. The Department chose to limit the types of gambling permitted by a TUN to equal chance gaming in respect of tournaments, balancing the risks to society against the opportunity for industry.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? The Department consulted on this policy option and gained industry support. The costs are in line with premises licensing and give the industry another opportunity to expand their business potential

Ministerial Sign-off For SELECT STAGE Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:

.....Date:

Summary: Analysis & Evidence

Policy Option:

Description:

ANNUAL COSTS

One-off (Transition) Yrs
£ 500

Average Annual Cost
(excluding one-off)

£ 10,500

Description and scale of **key monetised costs** by 'main affected groups' The operator must pay a maximum of £500 per notice. A notice can be used for up to 21 days in a 12 month period for each premises. It is difficult to estimate how many licensing authorities will opt for the maximum fee and how many notices a licensed operator will give as we do not have any comparable data.

Total Cost (PV)

£

COSTS

Other key non-monetised costs by 'main affected groups'

ANNUAL BENEFITS

One-off Yrs
£

Average Annual Benefit
(excluding one-off)

£

Description and scale of **key monetised benefits** by 'main affected groups' The premises will gain from being used as a venue and the licensed operator will gain from another option to conduct business.

Total Benefit (PV)

£

BENEFITS

Other key non-monetised benefits by 'main affected groups'

Key Assumptions/Sensitivities/Risks

Price Base
Year

Time Period
Years

Net Benefit Range (NPV)
£

NET BENEFIT (NPV Best estimate)
£

What is the geographic coverage of the policy/option?

Great Britain

On what date will the policy be implemented?

1/12/07

Which organisation(s) will enforce the policy?

Local authorities

What is the total annual cost of enforcement for these organisations?

£

Does enforcement comply with Hampton principles?

Yes

Will implementation go beyond minimum EU requirements?

No

What is the value of the proposed offsetting measure per year?

£ n/a

What is the value of changes in greenhouse gas emissions?

£ n/a

Will the proposal have a significant impact on competition?

No

Annual cost (£-£) per organisation
(excluding one-off)

Micro
none

Small
none

Medium
none

Large
none

Are any of these organisations exempt?

No

No

N/A

N/A

Impact on Admin Burdens Baseline (2005 Prices)

(Increase - Decrease)

Increase of £

Decrease of £

Net Impact £

Key:

Annual costs and benefits: Constant Prices

(Net) Present Value

Evidence Base (for summary sheets)

[Use this space (with a recommended maximum of 30 pages) to set out the evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Ensure that the information is organised in such a way as to explain clearly the summary information on the preceding pages of this form.]

The Department had already given a commitment to Parliament during the passage of the Act, to approach temporary use notices with some caution and not to extend them to all forms of gambling, such as casino games and gaming machines. This provision, does however, present the industry with an opportunity to provide some types of gambling without the need to obtain a premises licence. The commitment given to Parliament was to the effect that initially TUNs would only be allowed for tournaments. These are by their nature temporary events and therefore most suited to a temporary form of permission where it might otherwise be disproportionate to require a premises licence to be obtained. The Department consulted on this basis. Responses to the consultation did not disagree with the low level of gambling permitted by temporary use notices.

There are measures embedded in the Act which minimise the risk of these permissions being used in a way that is inconsistent with the licensing objectives in the Act. The Objectives are:

- Preventing gambling being a source of crime or disorder
- Ensuring that gambling is conducted in a fair and open way; and
- Protecting children and the vulnerable from being harmed or exploited by gambling

The operator giving the notice must have a valid operating licence from the Gambling Commission. This licence will have conditions attached and the operator will also be subject to the objectives of the Act. This also affords some protection to the wider industry in that operators must be licensed in order to conduct an activity, ensuring that only professional companies can apply. This measure is pro-competition; it de-regulates the use of premises, albeit for temporary periods.

However, though the operator will be governed by the conditions attached to their licence, the premises itself is not. Premises permanently offering gambling must meet a series of conditions which support the objectives of the Act, in order to qualify for a licence. Therefore, limiting the types of gambling permitted to a low level reduces the risk, whilst still providing the industry with the choice to use a temporary use notice.

The maximum fee for a temporary use notice is £500. The Department proposed this fee in its consultation paper and did not meet any objection from authorities or the industry alike. Authorities must determine their own fee, which does not exceed this maximum figure and meets the cost of dealing with this procedure.

Temporary use notices can be used for up to 21 days in a 12 month period for particular premises. The fee would need to be paid by the operator, to the licensing authority each time a notice is given. The fee covers processing the notices, dealing with any representations made by designated authorities and any possible hearings as a result, maintaining records of the notices given to an authority and any assessment and compliance visits to the premises. Authorities must ensure that the fee they determine is a fee which covers their cost but is affordable to the industry.

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	<i>Results in Evidence Base?</i>	<i>Results annexed?</i>
Competition Assessment	Yes/No	Yes/No
Small Firms Impact Test	Yes/No	Yes/No
Legal Aid	Yes/No	Yes/No
Sustainable Development	Yes/No	Yes/No
Carbon Assessment	Yes/No	Yes/No
Other Environment	Yes/No	Yes/No
Health Impact Assessment	Yes/No	Yes/No
Race Equality	Yes/No	Yes/No
Disability Equality	Yes/No	Yes/No
Gender Equality	Yes/No	Yes/No
Human Rights	Yes/No	Yes/No
Rural Proofing	Yes/No	Yes/No

