



THE GAMBLING ACT 2005

INFORMATION FOR APPLICANTS

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These notes are for guidance only. They are intended to assist applicants in the preparation of applications for the various permissions prescribed in the Gambling Act 2005 – premises licences, permits and registrations – and to provide information. They are NOT a definitive statement of the law and we advise you to consult a solicitor if you have any questions about legal aspects of your application.

Most of the information relates to Premises License as this is the most complex area of the Act. However, we have also included information on permits and registrations as this will be of interest to existing licensees and permit holders.

OVERVIEW OF THE ACT

The Act is designed to modernise the UK's existing laws on betting and gaming and will regulate all gambling in Great Britain except the National Lottery and Spread Betting.

The Act repeals the Betting, Gaming and Lotteries Act 1963, the Gaming Act 1968 and the Lotteries and Amusements Act 1976.

The Act introduces a unified regulator for gambling – the Gambling Commission, replacing the Gaming Board.

The Act transfers responsibility for gaming and betting premises from licensing justices to local councils (licensing authorities).

THE LICENSING OBJECTIVES

The Act focuses on three key objectives:

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

Licensing Authorities will have a duty to promote the objectives and to permit gambling provided it is, as far as possible, consistent with them.

Regulation to be achieved through:

- Secondary legislation (regulations)
- Conditions of licence
- Codes of practice issued by the Gambling Commission
- Guidance from the Department of Culture, Media and Sport.

THE LICENSING FRAMEWORK

The Act creates three categories of licence:

- Operating Licence
- Personal Licence
- Premises Licence

Operating Licences

These will be issued by the Gambling Commission and will authorise individuals and companies to provide specified types of gambling or gaming facilities. Types of licence that may be issued are:

- Casino operating licence
- Bingo operating licence
- General betting operating licence
- Pool betting operating licence (eg the Tote)
- Betting intermediary operating licence
- Gaming machine general operating licence (for adult gaming centre or family entertainment centre)
- Gaming machine technical operating licence (for machine manufacturers)
- Gambling software operating licence
- Lottery operating licence

Operating licences will last indefinitely and are not transferable.

Personal Licences

These will also be issued by the Gambling Commission. It is a mandatory condition of an Operating Licence that at least one person holds a management office and that person must hold a Personal Licence. (There is an exemption from the requirement to hold a Personal Licence for “small scale” operators. In general terms, a small scale operator is defined as a business having no more than three qualifying management positions.)

The purpose of the Personal Licence is to ensure that individuals who control gambling facilities are fit and proper persons.

Personal Licenses last indefinitely and are not transferable.

Premises Licence

Premises Licenses will be granted by Licensing Authorities for the following facilities:

- Casinos
- Bingo halls
- Betting premises (including betting shops, betting tracks etc)

- Adult gaming centres (Category B3, B4, C and D gaming machines)
- Family entertainment centres (Category C and D gaming machines)

Generally, Premises Licences may only be granted to a person who is over 18 who has (or has applied for) an Operating Licence and who has the right to occupy the premises for which the licence is applied.

A Premises Licence lasts indefinitely. An annual fee is payable to the licensing authority.

A Premises Licence may not be granted for a road vehicle, train, aircraft, seaplane or amphibious vehicle but may be granted for a vessel on an inland waterway.

Permits

Licensing Authorities will issue permits for the following lower risk gambling activities:

- Prize gaming (eg bingo)
- Unlicensed Family Entertainment Centres (Category D gaming machines only)
- Gaming machines (“fruit” or “slot” machines)

The Gambling Act creates seven categories of gaming machines with varying levels of stakes and payouts. Restrictions on the number and type of machines will apply depending on the type of gambling carried out at a premises (see Appendix 1.).

Registrations (Lotteries)

Licensing Authorities already have responsibility for registering Society Lotteries. This function will continue but with revised procedures.

LICENSING POLICY

S349 of the Act requires a Licensing Authority to prepare and publish a Statement of Principles explaining how the authority will carry out its licensing functions.

RESPONSIBLE AUTHORITIES AND INTERESTED PARTIES

Like the Licensing Act, the Gambling Act establishes two groups of persons who can make representations about applications – “Responsible Authorities” and “Interested Parties”.

Responsible Authorities

The Act defines Responsible Authorities as:

- A Licensing Authority
- The Gambling Commission
- Police
- Fire and Rescue Service
- Local Planning Authority

- An authority that has functions in relation to pollution of the environment and health and safety.
- A body responsible for the protection of children from harm
- HM Customs and Revenue
- Any other person prescribed by Regulations.

(See Appendix 2 for details)

Interested Parties

For a person to be regarded as an Interested Party, they must

- Live sufficiently close to the premises to be likely to be affected by the authorised activities, or
- Have business interests that might be affected by the authorised activities, or
- Represent persons in either of the above groups.

Our Statement of Principles sets out the criteria we will use to determine if a person is considered to be an Interested Party.

Representations

Responsible Authorities and interested Parties may make representations about an application for a Premises Licence.

Representations must relate to one or more of the licensing objectives and not be “frivolous or vexatious”. If a valid representation is received, the Licensing Authority must hold a hearing to determine the application.

LICENCE CONDITIONS

The Act provides for three types of licence conditions:

- Mandatory conditions – imposed by the Secretary of State
- Default conditions – imposed by the Secretary of State but which may be removed, on application, by a licensing authority (NB Default conditions will generally be the industry “norm”)
- Conditions attached by a licensing authority after a hearing.

TIMETABLE

The timetable for implementation of the Act is as follows:

1/1/07 to 27/4/07 Operating Licences	Gambling Commission accepts advance applications for
1/1/07 to 29/6/07 Personal Licences	Gambling Commission accepts advance applications for

21/5/07 for Premises Licences	Licensing Authorities start to accept advance applications
31/7/07	Deadline for applications for Premises Licenses from existing operators who wish to benefit from continuation rights. Applications received after this date will not receive continuation rights.
1/9/07	New licences come into force.

APPLYING FOR A LICENCE

Existing Operators

Generally, existing licences will be automatically renewed or extended until 31st August 2006 without the need for any action by the licensee. However, if you wish to continue to operate your business without interruption after 31st August 2006 you must apply before 31st July 2007 for a new premises licence. If you fail to do this, you will not benefit from continuation rights and must cease trading until your new licence is granted.

Conversion of Existing Licence

The Act provides for two types of conversion “fast track” and “non fast track”

- i) Fast track application. This is basically a straightforward conversion of your existing licence. Your licence will be granted with all the prescribed mandatory and default conditions.

The application must be made on the prescribed form (sample enclosed) and must be accompanied by:

- A copy of the equivalent licence granted under the Betting, Gaming and Lotteries Act 1963 or the Gaming Act 1968.
- A scale plan of the premises, and
- The application fee (see Appendix 3)

- ii) Non-fast track application. You may apply to vary any of the default conditions attached to the licence.

- A copy of the equivalent licence granted under the Betting, Gaming and Lotteries Act 1963 or the Gaming Act 1968,
- A scale plan of the premises,
- Advertisement of the application in a local newspaper (within 10 working days of submitting the application,
- A notice of application sent to all Responsible Authorities (See Appendix 4)
- A notice displayed at the premises for 28 consecutive days after submitting the application (see appendix 5) and
- The application fee (see Appendix 3)

Responsible authorities and interested parties may make representations about your application in which case the application will be determined at a hearing by a Licensing Sub Committee.

New Operators

Until 27th April 2007, if you wish to apply for one of the existing betting and gaming licences you should apply to the current licensing authority, notably the Licensing Magistrates for betting shop, track betting and bingo licences; the Local Council for an Amusement Arcade (s.34(5)(E)) licence.)

Once you have been granted a licence, you can then apply to convert this as explained at paragraph 8.1. Provided you submit your application by 31st July 2007, you will benefit from continuation rights.

After 27th April 2007, you will not be able to apply for a licence under the existing legislation. You will need to apply to the Gambling Commission and Personal Licences and to the Local Council for a Premises Licence. Again, the deadline is 31st July 2007 if you wish to benefit from continuation rights.

Plans

The plan to accompany an application must be to scale and must show;

- The boundary of perimeter of the premises,
- The location of any external or internal walls,
- All entry and exit points.

In relation to an application for a bingo premises licence where children will be allowed on the premises, the plan must also show:

- The part(s) of the premises where Category B and/or C gaming machines are located.
- Any part(s) of the premises which will be used for gaming (other than those parts which are used for Category B and/or C gaming machines)
- The nature and location of any barrier separating the area containing Category B and/or C gaming machines from other parts of the premises used for gaming purposes.

In relation to a betting premises (other than a track), the plan must also show the location and extent of any part of the premises that will be used to provide facilities for gambling.

Advertising the Application

Except for a fast track conversion application, all applications for premises licences must be advertised as follows:

- i) by giving a Notice of Application on the prescribed form (see Appendix 4) to all the Responsible Authorities within seven days of submitting the application.

- ii) by publishing a notice of the application in a local newspaper, on at least one occasion within a period of ten working days starting on the day after the application is submitted.
- ii) by displaying a notice at the premises in a place where it can be conveniently read from the exterior of the premises for a period of not less than 28 consecutive days starting on the day on which the application is submitted.

The Licensing Authority will not be able to determine an application if these requirements are not complied with.

A responsible Authority or an Interested Party may make a representation about an application within 28 days after the application has been made to the licensing authority.

Application Forms

Application forms relating to matters administered by the Council as the Licensing Authority under the Gambling Act can be accessed on the Department of Culture, Media and Sport via www.hastings.gov.uk/licensing.

GAMING MACHINES

Local Councils already issue permits for gaming machines (also known as Amusements with Prizes, “fruit” or “slot” machines) in pubs and amusement arcades (s.34(5)(E) permits) and in premises such as chip shops, cafes etc (s.34(1) permits). Under the Act, s.34(1) permits will be phased out when they expire and cannot be renewed.

The Act will also transfer responsibility for regulating gaming machines in registered clubs from the Licensing Justices to local Councils.

Existing Operators – Alcohol Licensed Premises

Premises which already have gaming machines will benefit from “grandfather rights” (ie they will be allowed to keep what they have). There will be an automatic right for licensees to provide up to two machines subject to a simple notification procedure. Licensees must notify the District Council before their current s.34 permit expires. For premises with more than two machines, licensees must apply for a new gaming machine permit at least two months before their current 2.34 permit expires.

New Operators – Alcohol Licensed Premises

Until 31st August 2007, you will need to apply to the District Council for a s.34 permit as usual. From 1st September 2007, you will need to either:

- Submit a notification to the Authority (up to two machines) or
- Make an application for a Gaming Machine Permit (more than two machines).

Applications may be made from 1st June 2007 onwards.

Existing Operators – Clubs

The Act replaces the current system of registration with two new permissions.

Until 31st August 2006, you should apply to the Licensing Justices for a Part 2 or Part 3 registration.

From 1st September 2007, you will need to apply to the District Council for a Club Machine Permit or a Club Gaming Permit.

Applications may be made from 1st June 2007 onwards.

The Department for Culture, Media and Sport has yet to announce the fees for Gaming Machine Permits, Club Machine Permits and Club Gaming Permits.

TEMPORARY USE NOTICES

A Temporary Use Notice (TUN) allows a premises to be used for gambling purposes on a temporary basis where there is no Premises Licence in force. A TUN may only be granted to a person or company holding a relevant Operating Licence issued by the Gambling Commission.

A premises may be used under a TUN for a maximum of 21 days in any calendar year. The Notice must be given to the licensing authority at least three months and one day before the event takes place. A copy of the Notice must be sent to:

- The Gambling Commission;
- The Police, and
- HM Customs and Revenue.

Who have 14 days to object.

OCCASIONAL USE NOTICES

An Occasional Use Notice can be used to permit betting on a track where this does not exceed more than eight days in a calendar year.

EXEMPTIONS

The Act provides a number of exemptions for certain betting and gaming activities.

Private Gaming

Gaming is private gaming when:

- It is equal chance gaming.
- No charge is made for participation, and
- The game is conducted in private (ie in a place to which the public do not have access.)

Private Betting

The Act provides for two types of private betting; domestic betting (ie in a person's own home) and workers' betting (ie between persons who all work for the same employer – this would cover, for example workers' sweepstakes etc).

Non-Commercial Gaming

Generally, gaming where the proceeds of the event are not used for private gain (eg for a charity or other "good cause") will not require a licence. Non-commercial gaming is subject to the following conditions.

- All players must be informed that the purpose of the gaming is to raise money for a purpose other than private gain.
- Profits from the gaming must be applied for a purpose other than private gain.
- The event must not take place on a premises which has a Premises Licence or is being used under a Temporary Use Notice, and
- The gaming must not be remote gaming.

Non-Commercial Betting

The Act allows alcohol licensed premises (pubs and clubs) to provide certain forms of low level gaming without the requirement for a licence or permit. (NB only premises which have a bar at which alcohol is served for consumption on the premises without a requirement for it to be served only with food will be eligible for this exemption. This will exclude places like restaurants, off licences etc.)

Bingo

Pubs and clubs are permitted to conduct low turnover bingo without the need for a prize gaming permit. To qualify a slow turnover bingo, the total value of the stakes or prizes must not exceed £2,000 in any seven day period. Above this limit, bingo becomes high turnover bingo and requires an operating licence and from the Gambling Commission plus a premises licence from the licensing authority.

Gaming

Gaming facilities may be provided in pubs and clubs subject to the following conditions.

- Facilities must be for equal chance gaming only;
- Stakes and prizes must not exceed any limits set by regulations;
- No amount may be deducted from amounts staked or won;
- No fees may be charged to participate;
- Gaming must not take place on more than one set of premises;

- Children under 18 must not participate.

WHAT DO I DO NOW?

We have included with these guidance notes the relevant forms to make an application for your new licence. In order to resolve any problems, we recommend that you talk to a member of the Licensing Team before submitting a formal application.

You should send your completed forms to:

The Licensing Team
Hastings Borough Council
Aquila House
Breeds Place
Hastings
TN34 3UY

together with the supporting documents required. You may email documents to licensing@hastings.gov.uk but you must also send a hard copy at the same time. This is a legal requirement.

If you need further advice, please contact the Licensing Team on the following number:

Tel: 01424 451042

Fax: 01424 783296

Appendix 1

Gaming Machines – Categories and Entitlements

Category of Machine	Maximum Stake	Maximum Prize
A	Unlimited	Unlimited
B1	£100	£4,000
B2	£15 single stake or £100 multiple	£500
B3	£1	£500
B4	£1	£250
C	50p	£35
D	10p or 30p when non monetary prize	£5 cash or £8 non monetary prize

	Machine Category								
Premises Type	A	B1	B2	B3	B4	C	D		
Regional Casino	Maximum of 1250 machines Any combination of machines in categories B to D (subject to table ratio of 25.1)								
Large Casino	Maximum of 150 machines Any combination of machines in categories B to D (subject to table ratio of 5:1)								
Small Casino	Maximum of 80 machines Any combination of machines in categories B to D (subject to table ratio of 2:1)								
Betting premises and tracks	Maximum of 4 machines in categories B2 to D								
Bingo premises					Maximum of 4 machines in categories B3 or B4	No limit on machines in categories C and D			
Adult gaming centre					Maximum of 4 machines in categories B3 or B4	No limit on machines in categories C and D			
Family Ent centre (licensed)						No limit on machines in categories C and D			
Family Ent centre (with permit)						No limit on cat D machines			
Clubs and miners' institutes					Maximum of 3 machines in categories B4 to D				
Alcohol licensed premises					Automatic entitlement up to 2 machines in categories C and D				
Travelling fair					No limit on cat D machines				

Appendix 2

Responsible Authorities

Licensing Authority	Fire and Rescue Service
<p>Hastings Borough Council Licensing Team Aquila House, Breeds Place Hastings, East Sussex. TN34 3UY</p> <p>Tel: 01424 451042 Email: licensing@hastings.gov.uk</p>	<p>Station Manager Fire Safety East Sussex Fire & Rescue Service Bohemia Road Hastings East Sussex TN34 1EX</p> <p>Tel: 01424 431484</p>
Gambling Commission	Pollution Control
<p>The Gambling Commission Victoria Square House Victoria Square Birmingham B2 4BP</p> <p>Tel: 0121 233 1058 Email: info@gamblingcommission.gov.uk</p>	<p>Pollution Control Team Aquila House, Breeds Place Hastings, East Sussex, TN34 3UY</p> <p>Tel 01424 451079</p>
HM Customs and Excise	Health and Safety
<p>HM Commissioners Of Customs & Excise 27 St Leonards Road Eastbourne East Sussex BN21 3UU</p>	<p>Aquila House, Breeds Place Hastings, East Sussex. TN34 3UY</p> <p>Tel 01424 451078</p>
Child Protection	Planning
<p>East Sussex County Council Head of Children's Safeguards and Quality Assurance PO Box 5 East Sussex County Council County Hall Lewes East Sussex BN7 1SW</p> <p>Tel: 01273 418200</p>	<p>Development Control Hastings Borough Council Aquila House Breeds Place Hastings East Sussex TN34 3UY</p>
Police	Vessels Only
<p>Licensing Department Police station Bohemia road</p>	Not applicable

Hastings
East Sussex
TN34 1JJ

Tel 0845 60 70 999

Appendix 3

Fees

Premises Licence

The Government has set maximum fees for Premises Licenses. Licensing authorities have discretion to set licence fees at any level up to the maximum based on full cost recovery but must not generate a surplus. (NB Fees for casinos have not been included). The Council has now determined it's licence fees, these are set under the government maximum, and are laid out below;

Gambling Act 2005 – Fees for Hastings Borough Council

Class of premises licence	Conversion application fee for non-fast track application (see also "note" below)	Non-conversion application fee in respect of provisional statement premises	Non-conversion application fee in respect of other premises	Annual fee	Fee for application to vary licence	Fee for application to transfer a licence	Fee for application for reinstatement of a licence	Fee for application for provisional statement
Bingo premises licence	£1,300	£1,000	£2,600	£750	£1,300	£900	£900	£2,600
Adult gaming centre premises licence	£750	£1,000	£1,500	£750	£750	£900	£900	£1,500
Betting premises (track) licence	£1,000	£800	£2,000	£750	£1,000	£800	£800	£2,000
Family entertainment centre premises licence	£750	£800	£1,500	£550	£750	£700	£700	£1,500
Betting premises (other) licence	£1,100	£1,000	£2,200	£450	£1,100	£900	£900	£2,200

Notes : 1. In all cases the fee for a "fast track" conversion application is £250.
2. The first annual fee of a licence will be subject to a 25% discount.
3. All copy licences will be £25.
4. All notifications of change will be £50 (except Adult Gaming Centres which will be £25).

Permits – Fees set by central Government.

Fee Type Permit Type	Application fee	Renewal fee	Transitional Application Fee
FEC Gaming Machine	300	300	100
Prize Gaming	300	300	100