

GAMING ON LICENSED PREMISES

1 SUMMARY

- 1.1 This report introduces the transfer of responsibility from the Justice's Licensing Committee to the Licensing Authority, for gaming on licensed premises.
- 1.2 The report suggests matters that need to be considered by Members of the Licensing Committee in discharging those responsibilities.
- 1.3 The report seeks a resolution by Members in respect of delegations.

2 INTRODUCTION

- 2.1 Under schedule 6 of the Licensing Act 2003 and The Licensing Act 2003 (Commencement No.7 and Transitional Provisions) Order 2005 responsibility for gaming on licensed premises was transferred from the courts to Licensing Authorities with effect from 24 November 2005.
- 2.2 By virtue of section 7 of the Licensing Act 2003 the functions must be delegated to the Licensing Committee established under section 6 of that Act.
- 2.3 The measures have interim effect until full enactment of the Gambling Act 2005, expected to be in September 2007. A separate report detailing the impact of that legislation will be made in due course.
- 2.4 The interim changes affect: -
 - (a) the grant of permits for Amusement With Prizes machines (AWP's) on alcohol-licensed premises, under section 34 of the Gaming Act 1968,
 - (b) the grant of permits for commercial amusements with prizes on alcohol-licensed premises, under section 16 of the Lotteries and Amusements Act 1976,
 - (c) the making of orders for low-stake gaming on alcohol-licensed premises, under section 6 of the Gaming Act 1968.

3 BACKGROUND

Gaming machines – section 34

- 3.1 The responsibility for granting AWP permits for licensed premises extends the existing responsibility of local authorities for issuing such permits in respect of non-licensed premises, e.g. taxi offices and amusement arcades.

- 3.2 The premises affected by the changes are those holding a premises licence authorising the supply and consumption of alcohol in a bar area, e.g. a public house. Premises such as restaurants do not qualify for the grant of a permit.
- 3.3 All existing permits remain valid for their normal duration of 3 years from date of grant. From 24 November 2005, all applications for grant or renewal of permits must be made to the Licensing Authority and will be valid for 3 years upon grant.
- 3.4 Transitional provisions apply in respect of outstanding applications that were made to the courts at least 1 month prior to 24 November 2005 when they will be remitted to the Licensing Authority for determination. Any permits that would otherwise have expired in the interim period will automatically be extended until determined.
- 3.5 The fee for the grant or renewal of a permit is £32.00.

Prize gaming permits – section 16

- 3.6 Prize-gaming permits in respect of commercial amusements with prizes usually refer to lotteries and games of equal chance that may be played and last for 3 years.
- 3.7 Local authorities already issue permits for the playing of certain games and lotteries for prizes commercially within specified money limits. Permits under this section are not used for AWP's.
- 3.8 Licensing Authorities will now have responsibility for issuing those permits in respect of alcohol-licensed premises.
- 3.9 Unlike the restrictions on the type of premises licence imposed in respect of AWP's, permits under this section can be granted to any premises having a premises licence that generally authorises the consumption of alcohol on the premises, e.g. restaurants.
- 3.10 Transitional arrangements apply to these permits but are not relevant to this report, as none currently exist within this district.
- 3.11 The fee for grant or renewal of a permit is £32.00.

Low-stake gaming – section 6

- 3.12 Local authorities have not previously been responsible for making orders in respect of low-stake gaming. Low-stake gaming refers to games, other than cribbage and dominoes that may be played for cash or prizes.
- 3.13 Licence-holders of premises where the supply and consumption of alcohol on the premises is authorised, e.g. public houses, can apply for an order to allow the playing of games of equal chance, e.g. bingo or bridge, provided there is no charge for taking part or levies on stakes or winnings.

- 3.14 Orders may be made subject to conditions to ensure that gaming for high stakes does not take place and to prevent the playing of them to act as an inducement for persons to frequent the premises.
- 3.15 There are no transitional arrangements nor are there any application forms as the application is part of the premises licensing process and it is assumed that applications for premises licences will include details of such an order being sought.
- 3.16 There is no fee payable.

Considerations in discharging the role

- 3.17 The functions described above arise out of changes under the Licensing Act 2003 but are not functions under that Act and are not subject to the licensing objectives.
- 3.18 The functions remain under the Gaming Act 1968, as amended and the Lotteries and Amusements Act 1976 and must be discharged in accordance with the requirements of those Acts.
- 3.19 DCMS recommend in their guidance of 10 October 2005 that Licensing Authorities consider the Justice's Clerk's Society Good Practice Guide and the Gambling Act 2005 which endorse the principle that qualifying premises should be permitted 2 machines as a minimum, without need for a hearing.
- 3.20 It also recommends that hearings should not necessarily be triggered for applications for more than 2 machines but that each application should be treated on its own merits. The advice leans towards matters being delegated as fully as possible.
- 3.21 The Licensing Authority cannot resolve to ban or limit the existence of AWP's on alcohol-licensed premises, nor can the Authority impose any conditions on the grant or renewal of a permit.
- 3.22 The Authority can, however, limit the number of machines on a case-by-case basis. Current practice within the court process is for applicants to provide the Licensing Justices with evidence concerning the number of 'plays' to support an application for an increase in the number of machines.
- 3.23 Whilst the Authority cannot impose any conditions on the grant of a permit, e.g. machines can be placed anywhere in the premises, current policy within the courts is for machines to be placed where their use can be supervised at all times to protect the safeguards of children. Those issues have already been addressed in the application process for premises licences.

4 ASSESSMENT

- 4.1 There are currently 46 alcohol-licensed premises, i.e. public houses, in the district that hold permits for AWP's. It is not known at this time how many machines are operated in each premise or when permits will expire.
- 4.2 There is no record of any premise holding a permit for lotteries or any record to indicate what premises, if any, have an order permitting low-stake gaming.
- 4.3 The most likely causes for an application to be made are: -
- (a) expiry of the permit,
 - (b) application to increase the number of machines,
 - (c) transfer of premises licence (not expected to be a frequent occurrence under the Licensing Act 2003).
- 4.4 DCMS encourage delegation of powers to Officers to determine applications wherever possible. It is therefore suggested that delegation would be appropriate for all uncontested applications, including those for an increase in the number of AWP machines where empirical evidence based upon the number of 'plays' is provided.

Conclusions

- 4.5 The prime, if not exclusive, future source of applications will be in respect of AWP's.
- 4.6 Experience shows that applications for grant, renewal or to increase the number of AWP's between 24 November 2005 and 1 September 2007 are unlikely to be significantly numerous. It is estimated that applications will be: -
- (a) unlikely to exceed 10% (5) of the total number of premises eligible in respect of applications for grant of a permit,
 - (b) permits for 60 – 70% (30) of the total number of premises will be subject to renewal, and
 - (c) unlikely to exceed 10% (5) per year of the total number of premises eligible in respect of applications for an increase in the number of machines.

5 RESOURCE IMPLICATIONS

- 5.1 Dependent upon the extent of delegation, resource implications for Members are expected to be slight.
- 5.2 Similarly, the implications for Committee Section are expected to be slight in terms of arranging meetings or training for Members. It is suggested that

such training as may be necessary can be accomplished by legal advice in the event of a hearing being required.

- 5.3 The Licensing Unit has sufficient resilience to meet the additional workload.
- 5.4 There are unlikely to be any additional resource implications in connection with enforcement, which is and will remain a matter solely for the police.

6 FINANCIAL IMPLICATIONS

- 6.1 The fee revenue generated will be approximately £1500.00 between 24 November 2005 and 1 September 2007 based upon 60% of premises renewing permits in that period.

7 RECOMMENDATION

- 7.1 It is proposed that the Committee **RESOLVES**

To confirm that the determination of all applications for gaming on licensed premises, other than those contested, are within the general scheme of delegation to officers.

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Background Papers: -

None

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