

Gambling Act 2005: Arcades Guidance (Including Adult Gaming Centres, Licensed Family Entertainment Centres and Unlicensed Family Entertainment Centres)

To operate an adult gaming centre or licensed family entertainment centre after 1 September 2007 you will need:

- **an operating licence** – apply to the Gambling Commission between 1 January and 27 April 2007;
- **a premises licence** – apply to your licensing authority between 21 May and 30 July 2007;
- **any personal licences appropriate to your business** – apply to the Gambling Commission between 1 January and 29 June 2007.

To operate an unlicensed family entertainment centre after 1 September 2007, you will need:

- an FEC gaming machine permit – apply to us between 21 May 2007 and 30 July 2007.

Existing Arcade Operators

This applies to existing operators of arcades with permits issued under Section 34 of the Gaming Act 1968, and who want to continue to operate their business after 1 September 2007.

What do I need to do if my existing arcade permit expires before 1 September 2007?

Nothing. Your existing permit has been automatically renewed until 31 August 2007. You can, if you want, write to us to obtain a copy of your renewed licence, and we will provide a copy free of charge. However, there is no requirement to do so.

What categories of arcade does the Gambling Act 2005 create?

The Gambling Act 2005 creates three new categories of arcade:

- **Adult gaming centres** – AGCs will be able to offer up to four Category B3 gaming machines, in addition to an unlimited number of Category C and D gaming machines. They will be strictly for over 18s only, and children will not be allowed in any part of the premises.
- **Licensed family entertainment centres** – Licensed FECs will be able to offer an unlimited number of Category C and D machines. Children will be allowed to enter licensed FECs and to gamble on Category D machines. Any category C machines must be located only in over-18 areas.
- **Unlicensed family entertainment centres** – Unlicensed FECs will be allowed to offer an unlimited number of Category D gaming machines. Children will have free access and be allowed to gamble on the Category D machines.

What do I need to do if I want to continue to operate my business after 1 September 2007?

If you currently hold a permit under Section 34(5E) of the 1968 Act, and wish to operate your arcade as an AGC or licensed FEC, you will need to make advance applications under the 2005 Act:

- to the Gambling Commission for a gaming machine general operating licence for an AGC or FEC;
- to us for an AGC or FEC premises licence; and,
- to the Gambling Commission for any personal licences required by your business.

If you currently hold a permit under Section 34(1) of the 1968 Act, and wish to operate your arcade as an unlicensed FEC, you will need to make an advance application to us for a family entertainment centre gaming machine permit. You will not need to apply to the Gambling Commission for an operating licence or any personal licences.

How long will my new licences last?

AGC and FEC operating, premises and personal licences will be of unlimited duration. You will not need to apply again unless your circumstances change. You will, however, be required to pay an annual fee to the Gambling Commission in respect of your operating licence and to us in respect of your premises licence. You will also be required to pay a periodic maintenance fee to the Gambling Commission in respect of your personal licence(s). FEC gaming machine permits will be granted for ten years. There is no annual fee.

Arcades – Existing Operators

Operating Licences

How do I obtain my operating licence?

You should apply to the Gambling Commission between 1 January and 27 April 2007. The Gambling Commission has issued its own guidance on the application procedures, and what you need to submit with your application. You can find this on the Gambling Commission's website: www.gamblingcommission.gov.uk.

Will I qualify for continuation rights?

If you submit your advance application by 27 April 2007 you will qualify for continuation rights. This means that you will be treated as having an interim operating licence effective from 1 September 2007, even if your application has not been resolved by that date. It is important to note that, even if you are operating by virtue of continuation rights, you will still be expected to abide by any relevant operating licence conditions and codes of practice that come into force on 1 September 2007. You will also remain subject to the review provisions set out in the Act. The Gambling Commission must specify the conditions that will apply to your category of interim operating licence. Information about the licence conditions and codes of practice that apply to your sector is available on the Commission's website.

What happens if I don't apply to the Gambling Commission by 27 April 2007?

The Gambling Commission will still process your application, and will do all it can to resolve your application as quickly as possible. However, you will lose your entitlement to continuation rights. This means that if your application has not been resolved by 1 September 2007, you will have to cease trading on that date until such time as your application has been resolved.

Will I qualify for grandfather rights?

The government has guaranteed that the premises aspects of current permissions will be grandfathered. This means that if you hold a premises-based permission under the existing law (for a betting shop, bingo hall, casino or arcade), you will be guaranteed the equivalent premises licence under the new Act. The government did not believe that it was appropriate to grandfather operating licences, as no-one should be exempt from the requirement to establish their suitability to be granted an operating licence. For the overwhelming majority of responsible operators in the industry, this should present no problems.

Premises Licences

How do I obtain my premises licence?

You should apply to your licensing authority between 21 May and 30 July 2007.

Will I qualify for continuation rights?

Yes. If you hold a valid permit issued under Section 34(5E) of the 1968 Act, and you submit your advance application before 30 July 2007, you will qualify for continuation rights. This means that you will continue to be able to operate from 1 September 2007, even if your application has not been resolved by that date. It is important to note that, even if you are operating by virtue of continuation rights, you will still be expected to abide by the relevant mandatory and default premises licence conditions that come into force on 1 September 2007. You will also remain subject to the review provisions set out in the Act.

We will acknowledge receipt of your application, and we will notify you that your application has been received in time and as such, if you hold an existing permission, you will qualify for continuation rights. We will also provide you with a summary of the mandatory and default premises licence conditions that will apply to the category of premises licence for which you are applying.

Will I qualify for grandfather rights?

Yes. If you are an existing operator, and you apply for your premises licence before 1 September 2007, you will be guaranteed a premises licence (except in the circumstances described in the next question). Your Section 34(5E) permit will qualify you for grandfather rights either as an AGC or licensed FEC. You will need to decide which category of new arcade you wish to operate as under the new Act. A single Section 34(5E) permit will not entitle you to more than one grandfathered premises licence under the new Act.

Are there any circumstances in which the licensing authority can refuse my application?

We could only refuse your application for a premises licence if:

- you have failed to submit any information that we need to process your application; or,
- it is obvious to us from the plan of your premises that you will be unable to comply with any condition attached to the category of premises licence for which you are applying. Further information about these circumstances is provided below.

What will I need to submit with my application?

You will be able to obtain information about application procedures from us. More information about applying for premises licences, including the application form, will also be available on our website, when this is available. However, in summary, you will need to submit the following with your application:

- a completed premises licence application form;
- a plan of the premises, which includes some basic information about the situation and layout of the premises;
- the prescribed application fee.

Will any special arrangements apply during the transitional period?

The application form will give you two choices. During the advance application period, you must opt for one option or the other:

- **fast track application** – you can opt to accept in full the mandatory and default conditions that the government will attach to the type of premises licence you are applying for; or,
- **non-fast track application** – you can apply to vary any of the default conditions that apply to the category of premises licence for which you are applying.

Whichever option you choose, if you are an existing operator, you will be guaranteed to obtain a premises licence with the mandatory and default conditions attached to it. You will not be permitted to make both a fast track and a non-fast track application. If you do make both applications, we will be required to refuse your non-fast track application.

What is the difference between the two procedures?

1. Fast track grandfathered premises licence application.

Key features:

- we must grant it;
- the new mandatory and default conditions will be attached to your premises licence and nothing more;
- we will not be able to amend default conditions or attach additional conditions at the point of issue (after issue, your premises licence may be reviewed like any other);
- it will involve a straightforward administrative procedure with no requirement for a hearing, to publish notice of the application or to notify responsible authorities;
- responsible authorities or interested parties will not be able to make representations;
- the application will be subject to a lower fee reflecting the reduced amount of work we have in dealing with the application.

2. Application for a grandfathered premises licence with a default condition excluded or varied (non-fast track application).

Key features:

- we must ultimately grant at least a premises licence with the new mandatory and default conditions attached to it (i.e. as in 1 above);
- we may grant or refuse your request to exclude or vary a default condition;
- where we grant the request, we may attach other conditions. This may, for example, relate to the same matter dealt with by the default condition, but it does not necessarily have to be so limited;
- all the normal requirements relating to the making of an application for a premises licence will apply, including the requirements to publish notice of the application and to notify responsible authorities;
- responsible authorities and interested parties may make representations;
- there may be (but will not necessarily be) a requirement for a hearing;
- your application will attract a higher fee to reflect the increased costs incurred by us.

What will happen if I make a mistake in my application form, or if there is an error or omission in my plan? Will you automatically refuse my application?

No. We will notify you of any error or omission. If you fail to rectify any error, we may then refuse your application. If the application qualifies for continuation rights (because it was made before 31 July 2007), we will specify a period of not less than 14 days for rectifying the error or omission. If you fail to do so within this period the continuation rights will lapse.

What will happen if we believe that, on the basis of the plan of my premises, I will be unable to comply with a condition attached to the licence under the new Act?

We will give you notice in writing indicating that it believes that, on the basis of your plan, the proposed premises is incompatible with a condition, explaining what that condition is and requesting information showing how you will meet the relevant condition, including an amended plan. You will be given a minimum of 14 days to comply with this request, and we cannot grant the licence until you comply. If you qualify for continuation rights, we will specify a period of not less than 14 days for complying with the request. If you fail to comply within this period, the continuation rights will lapse.

Personal licences

How many personal licences will I need and which people in my business will need them?

The Gambling Commission will issue separate guidance on who in your business requires a personal licence. If you qualify as a small scale operator, you will not need to obtain any personal licences, and the Gambling Commission will also publish advice on the operation of this exemption.

How do I obtain my personal licences?

You should apply to the Gambling Commission between 1 January and 29 June 2007. Information about application procedures and application forms will be available on the Commission's website.

Will I qualify for continuation rights?

Yes. As long as you apply before 30 June 2007, you will qualify for continuation rights. You will be treated as having been granted a personal licence until such time as your application is determined, even if this is after 1 September 2007.

Family entertainment centre gaming machine permits

How do I obtain my family entertainment centre gaming machine permit?

You should apply to us between 21 May and 30 July 2007.

Will I qualify for continuation rights and grandfather rights?

Yes. If you have a valid Section 34(1) permit, similar rules relating to continuation rights and grandfather rights that apply to premises licences will apply to FEC gaming machine permits.

What will I need to submit with my application?

You will be able to obtain information about application procedures from us. Further information about applying for FEC gaming machine permits will also be available on the Gambling Commission's website.

Will any special arrangements apply during the transitional period?

If you hold a valid permit and so qualify for a grandfathered FEC gaming machine permit, we will be required to grant your application. It will be treated in broadly the same way as a fast track grandfathered premises licence application, and a reduced application fee will apply.

Are there any circumstances in which the licensing authority can refuse my application?

The same rules that relate to applications for grandfathered premises licence applications will apply.

Special Circumstances

What happens if my existing permit is cancelled before 1 September 2007?

In the rare event that an existing permit is cancelled before 1 September 2007, the following arrangements will apply:

- the Gambling Commission will continue to be able to resolve any outstanding applications for operating and personal licences, but you will lose your entitlement to continuation rights;
- if you have already been issued with a new premises licence or permit under the new Act, that licence or permit will lapse on the date on which your licence under the old Act was cancelled or revoked;
- if your application for a grandfathered premises licence or permit under the new Act is still outstanding, we must refuse your application.

What happens if I want to make substantial alterations to my premises during the transition period?

Grandfather rights only apply where the application for a premises licence under the new Act relates to the same or substantially the same premises as those to which the Section 34 permit relates. If you are planning to make substantial alterations to your existing premises, you may wish to consider applying first for a grandfathered premises licence for your existing premises. You would then need to apply to us to vary your new premises licence.

This guidance applies to operators who:

- wish to apply for a first arcade permit before 31 August 2007; or,
- who already have an outstanding application for an arcade permit under the existing law.

What do I do if I want to apply for a first arcade permit before 31 August 2007?

You may continue to apply in the normal way to us for a Section 34 permit until 27 April 2007. No further applications under the existing legislation will be permitted after this date.

Assuming my application for a permit under the old Act is successful, how do I then convert it to a new licence or permit under the 2005 Act?

Broadly the same transitional arrangements will apply as for existing operators. You will still need to make advance applications for operating, premises and personal licences or for a permit under the new Act, and you should ensure that you make these applications by the dates stipulated above (at whatever point consideration of your application under the old legislation may have reached). We will not be able to resolve your application for a premises licence under the new Act until your application under the old legislation has been resolved. It will be your responsibility to notify the Gambling Commission in writing if the application under the old legislation is granted. You must do so within 14 days of the application under the old legislation being granted. If you fail to do so, you will lose any entitlement to continuation rights.

What will happen if my application under the old legislation is withdrawn or refused?

If your application under the old legislation is withdrawn or refused, we will be required to refuse your application for a grandfathered premises licence or permit under the new Act. The Gambling Commission may still consider any application for operating and personal licences under the new Act. However, you will not be entitled to continuation rights as an operator.

Will I qualify for continuation rights?

If your application under the existing legislation is resolved before 31 August 2007, but your advance applications under the new Act remain unresolved on that date, you will qualify for continuation rights. However, if your application under the old legislation has not been resolved by 31 August, you will not qualify for continuation rights as there will have been no existing permission to continue.

What do I do if I want to obtain a first licence or permit after 27 April 2007?

No further applications will be permitted under the existing legislation after 27 April 2007. If you wish to apply for a permission to operate an arcade after that date, you will need to apply under the new Act to the Gambling Commission for operating and personal licences, and to us for a premises licence, or to us for an FEC gaming machine permit, depending on which category of arcade you wish to operate.

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