

Gambling Act 2005 – Guidance

Alcohol Licensed Premises Gaming Machine Permits

Licensing authorities may issue licensed premises gaming machine permits for any number of category C or D machines in licensed premises. Where a permit authorises the making available of a specified number of gaming machines in particular premises, this will effectively replace, and not be in addition to any automatic entitlement to two machines under section 282.

Holders of alcohol-licensed premises gaming machine permits and club permits will be required to comply with a code of practice, which has been drawn up by the Gambling Commission (“the Commission”) on the location and operation of machines. Information about this code can be found on the Commission’s website www.gamblingcommission.gov.uk

Application process for licensed premises gaming machine permit

Applications must be made by a person or organisation that holds the premises licence authorising the sale of alcohol on the premises for which the application is made.

An application can only be made if there is not currently a premises licence under the Gambling Act in effect at the premises concerned.

The application must be made to the licensing authority in whose area the premises are wholly or partly situated. The Act requires an application to include the following information:

- Details of the premises to which the application relates;
- Number and category of gaming machines sought

Apart from the above details, it is for the licensing authority to direct the form and manner of the application and what additional information and documents are required, such as a valid alcohol premises licence.

In determining the application, the authority must have regard to the licensing objectives and to the statutory guidance issued by the Commission. The authority may also take account of any other matters which are considered relevant to the application. The application does not require the authority to notify the Commission or Police before determination of the application.

The authority may grant or refuse the application. In granting the application the authority may vary the number and category of gaming machines authorised by the permit. If the authority issues the permit they must issue the permit as soon as possible after that.

Where the application is refused they must notify the applicant as soon as possible, setting out the reasons for refusal. The authority must not refuse an application, or grant it for a different number or category of machines unless they have notified the applicant of their intention to do so and have given the applicant an opportunity to make representations (orally or in writing or both).

The licensing authority may not attach conditions to a permit.

Maintenance of permit

The holder of a permit must ensure that it is kept on the premises to which it relates and it must be produced on request for inspection by a constable, enforcement officer or local authority officer. An offence would be committed if the permit was not able to be produced on request.

Lost, stolen or damaged permit

If a permit is lost, stolen or damaged, the holder may apply to the issuing licensing authority for a copy. The application must be accompanied by the prescribed fee of £15.

Change of holder’s name

The permit holder can apply to the authority to amend the permit to reflect a change in the holder’s name. The licensing authority must comply with the request provided the prescribed fee of £25 is

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paid.

No renewal provisions

There are no renewal provisions for this class of permit because they are issued indefinitely and continue in force for so long as the premises continues to have an alcohol licence, and the holder of the permit continues to hold that licence. The permit can lapse if the holder surrenders it to the licensing authority.

Annual fee

The holder of a permit shall pay a first annual fee to the issuing licensing authority within 30 days after the permit comes into effect or within 12 months from the issue date, whichever is the sooner, and thereafter shall pay an annual fee of £50 to the licensing authority before each anniversary of the issue of the permit.

Variation of permit

The holder of a permit may apply to the licensing authority to vary the permit by changing the number and/or category of machines authorised by it. The fee for such an application is £100.

Cancellation of a permit

The licensing authority is able to cancel a permit but only in specified circumstances which include:

- (i) If the premises are used wholly or mainly by children or young persons;
- (ii) If an offence under the Act has been committed.

Before the licensing authority cancels a permit, it must:

- notify the holder giving 21 days notice of intention to cancel;
- consider any representations made by the holder;
- hold a hearing if requested; and
- comply with any other prescribed requirements relating to the procedure to be followed.

Where the authority cancels the permit, the cancellation does not take effect until the period for appealing against that decision has elapsed, or (where an appeal has been lodged), until that appeal is determined.

The authority can also cancel a permit if the holder fails to pay the annual fee (unless failure is the result of an administrative error). The court may order forfeiture of the permit if the holder is convicted of a relevant offence.

Transfer of a permit

Where a person applies to the licensing authority for the transfer of an alcohol premises licence, they will also need to apply separately for the transfer of the licensed premises gaming machine permit. Both applications will require a fee to be paid. The fee for the transfer of the gaming machine permit is £25.

Appeals

The applicant for a permit may appeal to the magistrates' court against the decision of the licensing authority to refuse to issue a permit.

The holder of a permit may also appeal against a decision to cancel a permit.

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