

Gambling Act 2005 – transfer of a premises licence

Updated August 2015

Transfer

A person may apply to the licensing authority for a premises licence to be transferred to them.

Premises licence

Where an individual or company proposes to offer gambling for which an operating licence is required, and which is premises based, that individual or company will also need to apply for a premises licence.

Premises licences are issued by the licensing authority with responsibility for the area in which the premises are situated.

Operating licence

Individuals and companies who intend to provide facilities for certain types of gambling must obtain an operating licence from the Gambling Commission. These licences cover the principal commercial forms of gambling operation.

The application process

An application to transfer a premises licence may only be made by persons (which includes companies or partnerships):

- who have the right to occupy the premises
- who have an operating licence, which allows them to carry out the proposed activity, for example a bingo operating licence for a bingo premises, or have applied for an operating licence (the premises licence can not be determined until an operating licence has been issued)

The exception to this is an applicant for a premises licence to allow a track to be used for betting, as these applicants are not required to hold an operating licence if they are merely providing space for other people to provide betting (and those other people hold

valid betting operating licences). However, if a track owner is also acting as a betting operator or running pool betting he will have to have the relevant type of operating licence.

An applicant for the transfer of a premises licence must be 18 or over.

The application must be made using the prescribed form (see application forms section below) and must be accompanied by:

- the prescribed fee
- a written statement by the current licensee consenting to the transfer
- the licence to be transferred or a written statement confirming why the original licence is not available and an application for the issue of a copy of the licence
- a plan of the premises, if applicable - needs to be to scale, although a specific scale is not prescribed (preferred 1:100)

Interim authority

Part three of the application form allows the applicant to request that they are treated as if they were the licence-holder during the application period. This will allow an established premises to continue operating under the authority of the premises licence while the application is considered. However, the use of this provision does not exempt the applicant from any other requirement under the Act, such as the need to hold a valid Operating licence. The effect of this section will commence when the application is received by the licensing authority, and end upon determination of the application.

Notice

Prescribed forms to be used to notify responsible authorities within seven days of application to the licensing authority can be found on the council's website.

Responsible authorities

Responsible authorities are public bodies that must be notified of applications and that are entitled to make representations in relation to applications for, and in relation to, premises licences. All representations made by responsible authorities are likely to be relevant representations if they relate to the three core objectives.

The four responsible authorities relevant to a transfer application are:

- the Gambling Commission
- the Chief Officer of Police
- the Local Safeguarding Children Board

- HM Revenue and Customs.

There is no requirement for newspaper or premises advertisements as part of a transfer application. Failing to properly notify the Responsible Authorities will delay the determination of your application.

Representations

Responsible authorities have 28 consecutive days from the date of application to make representations to the licensing authority.

The licensing authority will determine the relevance of the representation. To be relevant, they should usually relate to the licensing objectives. Vexatious or frivolous representations will not be considered.

Hearings

A hearing will not be held if all parties have come to an agreement (mediation) or if the authority feels the representation is vexatious or frivolous.

Otherwise a hearing will be held to determine the outcome of the application.

Determination

On considering an application for the transfer of a premises licence (whether at a hearing or not), a licensing authority shall:

- grant it, or
- reject it.

Grant

On grant of the application, the licensing authority shall as soon as is reasonably practical give notice to:

- the applicant
- the Gambling Commission
- any person having made a representation
- Chief Officer of Police
- Customs and Excise

Issue the premises licence to the applicant, together with a summary of the terms and conditions of the licence.

Reject

On rejection of the application, the licensing authority shall as soon as is reasonably practical give notice to:

- the applicant
- the Gambling Commission
- any person having made a representation
- Chief Officer of Police
- Customs and Excise

A notice will also be given to the above detailing the reasons for rejection.

Appeal

An applicant appealing against the rejection or a responsible authority appealing against the transfer of a premises licence has 21 days from receipt of the notice of decision from the licensing authority in which to make an appeal.

The appeal should be lodged with the magistrates court that covers the area in which the premises are situated.

Conditions

On grant of the transfer, the licensing authority may make alteration of the licence as appears to be required. This may include the addition/removal of conditions, as well as the alteration of existing conditions.

Fees

Gambling Act 2005 fees can be found on the council website.

Register

Current applications for the transfer of a premises licence and those previously completed can be viewed on the Premises Licence public register, listed together with other 'events' held against a given premises.