

CONSIDERATION OF REVOCATION OF 10 PREMISE LICENCES ISSUED UNDER THE GAMBLING ACT 2005

Report By: Head Of Environmental Health And Trading Standards

Wards Affected:

Countywide

1. Purpose

To consider revocation of 10 Premise Licences issued under the Gambling Act 2005.

2. Legislation

The Gambling Act 2005

Section 184 - Annual fee

(1) The holder of a premises licence—

(b) shall pay an annual fee to the licensing authority before each anniversary of the issue of the licence.

Section 193 - Revocation for failure to pay fee

(1) Where the holder of a premises licence fails to pay the annual fee in accordance with regulations under section 184 the licensing authority shall revoke the licence.

(2) But the licensing authority may disapply subsection (1) if they think that a failure to pay is attributable to administrative error.

The Gambling (Premises Licence Fees) (England and Wales) Regulations 2007

Section 8 - Annual fee for premises licence

(1) The amount of the annual fee for a premises licence shall be determined by the relevant licensing authority.

3. Background

The premises listed below were all issued with premises licences under the Gambling Act 2005 and these licences came into force on 1st September 2007. Accordingly the annual fee became payable prior to 1st September 2008. The premises listed below have not to date paid these annual fees.

The Licensing Authority are not required to notify licence holders of the annual fee, as the onus rests with the holder to ensure that the fee has been paid. However, despite this the licensing team has written to all the below premises and reminded them to pay their fee, so that they can retain their licence. Should this not be paid, they have been reminded that the Council will have no alternative but to revoke their licence.

Type of Licence: Betting premises licence (in respect of premises other than a track) Fee £512 per annum

Premises: -

William Hill, 42B Holme Lacy Road, Hereford, HR2 6BZ

William Hill, 4A St Peters Street, Hereford, HR1 2LA

William Hill, 3 Broad Street, Ross on Wye, HR9 7DZ

William Hill, 25/27 High Street, Leominster, HR6 8LZ

Leominster Bookmakers, 2-3 Chapel Walk, Burgess Street, Leominster. HR6 8DE

Racing, 49 High Street, Bromyard. HR7 4AE

Type of Licence: Adult Gaming Centre. Fee £799 per annum

Premises: -

Symonds Yat Leisure Park, Symonds Yat West. HR9 6BY

First Motorway Services Ltd, Magor Motorway Services Area, M4 Magor, Caldicot.
NP26 3YL

Type of Licence: Family Entertainment Centre. Fee £661 per annum

Premises: -

Symonds Yat Leisure Park, Symonds Yat West. HR9 6BY

Ritz Snack Bar and Amusements, 47 Commercial Road, Hereford. HR1 2BJ

4. Recommendation

That the current premise licences be revoked if the fees are not paid prior to today's hearing, in accordance with Section 193 of the Gambling Act 2005.

NOTES**RELEVANT, VEXATIOUS AND FRIVOLOUS REPRESENTATIONS**

9.8. A representation would only be “relevant” if it relates to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives. For example, a representation from a local businessman which argued that his business would be commercially damaged by a new licensed premises would not be relevant. On the other hand, a representation that nuisance caused by the new premises would deter customers from entering the local area and the steps proposed by the applicant to control that nuisance were inadequate would be relevant. There is no requirement for an interested party or responsible authority to produce a recorded history of problems at a premises to support their representations, and in fact this would not be possible for new premises. Further information for interested parties about the process for making representations is available in “Guidance for interested parties: Making representations” which can be found on the DCMS website.

9.9 The “cumulative impact” on the licensing objectives of a concentration of multiple licensed premises may also give rise to a relevant representation when an application for the grant or variation of a premises licence is being considered, but not in relation to an application for review which must relate to an individual premises.

9.10 It is for the licensing authority to determine whether any representation by an interested party is frivolous or vexatious on the basis of what might ordinarily be considered to be vexatious or frivolous. Vexation may arise because of disputes between rival businesses and local knowledge will therefore be invaluable in considering such matters. Frivolous representations would be essentially categorised by a lack of seriousness. An interested party who is aggrieved by a rejection of their representations on these grounds may challenge the authority’s decision by way of judicial review.

9.11. Licensing authorities should not take decisions on whether representations are relevant on the basis of any political judgment. This may be difficult for ward councilors receiving complaints from residents within their own wards. If consideration is not to be delegated, contrary to the recommendation in this Guidance, an assessment should be prepared by officials for consideration by the subcommittee before any decision is taken that necessitates a hearing. Any ward councilor who considers that their own interests are such that they are unable to consider the matter independently should disqualify themselves.

9.12 The Secretary of State recommends that in borderline cases, the benefit of the doubt should be given to the interested party making the representation. The subsequent hearing would then provide an opportunity for the person or body making the representation to amplify and clarify it. If it then emerged, for example, that the representation should not be supported, the licensing authority could decide not to take any action in respect of the application.

Licensing Authorities power to exercise substantive discretionary powers.**The British Beer and Pub Association (2) The Association of Licensed Multiple Retailers (3) The British Institute of Inn keeping V Canterbury City Council.**

Contesting the validity of the Licensing policy that asks for certain requirements before the application has been submitted. In the summing up the Judge states; The scheme of the legislation is to leave it to applicants to determine what to include in their applications, subject to the requirements of Section 17 and the Regulations as to the prescribed form and the inclusion of a statement of specified matters in the operating schedule. An applicant who makes the right judgement, so that the application gives rise to no relevant representations, is entitled to the grant of a licence without the imposition of conditions. The licensing authority has no power at all to lay down the contents of an application and has no power to assess an application, or exercise substantive discretionary powers in relation to it, unless there are relevant representations and the decision – making function under section 18 (3) is engaged.