

Pubs and other alcohol licensed premises

SUMMARY

Up to 31 August 2007, you apply to your licensing authority to renew your existing Section 34 permit, or for a first Section 34 permit, in the normal way.

Your existing Section 34 permit will continue to have effect after 1 September 2007 as if it were a licensed premises gaming machine permit issued under the new Act. After 1 September 2007, the following arrangements will apply:

- Up to two gaming machines – Pubs will have an automatic entitlement to two gaming machines, subject to a simple notification procedure. You should make this notification to your licensing authority prior to the expiry of your existing Section 34 permit.
- More than two gaming machines – Pubs which want to offer more than two gaming machines will need to apply to their licensing authority for a licensed premises gaming machine permit. You should apply at least two months before the date on which your Section 34 permit is due to expire.

Pubs – Existing operators

This part applies to pubs and other alcohol licensed premises which are already making gaming machines available by virtue of a permit issued under Section 34 of the Gaming Act 1968 either by the licensing magistrates or, since November 2005, by their licensing authority under the Licensing Act 2003.

What do I do if my existing Section 34 permit expires before 31 August 2007?

You should apply to the licensing authority in the normal way. If successful, your application will be granted for three years.

As long as you apply on or before 31 August 2007, the licensing authority will still be able to resolve your application under the old Act, even if it is not able to do so until after 31 August. However, you should note that all such permits will cease to have effect on 31 August 2010.

But I thought I had to apply to the licensing magistrates for my Section 34 permit, not my licensing authority?

Responsibility for issuing Section 34 permits to pubs and other alcohol licensed premises was transferred to licensing authorities in November 2005 as a result of changes made by the Licensing Act 2003. Licensing authorities will continue to be responsible for authorising the use of gaming machines in pubs under the Gambling Act.

What do I do if my existing Section 34 permit expires on or after 1 September 2007?

What you need to do will depend on how many gaming machines you plan to offer. The 2005 Act replaces section 34 permits with two new permissions:

Up to two gaming machines – Pubs and other alcohol licensed premises (with a bar authorised to serve drinks without food) will have an automatic entitlement to one or two gaming machines (Category C or D), subject to a simple notification procedure. If you wish to offer up to two machines, you will need to make your notification to your licensing authority prior to the expiry of your existing Section 34 permit.

More than two gaming machines – Pubs and other alcohol licensed premises (with a bar authorised to serve drinks without food) which want to offer more than two gaming machines will need to apply to their licensing authority for a licensed premises gaming machine permit.

If you wish to offer more than two machines, you will need to apply to your licensing authority at least two months before the date on which your existing Section 34 permit is due to expire. For example, if your Section 34 permit is due to expire on 2 September 2007, you should apply under the new Act no later than 2 July 2007.

How long will my new permission last?

The automatic entitlement and licensed premises gaming machine permit will be of unlimited duration. Once you have it, you will not need to apply again unless your circumstances change.

Holders of licensed premises gaming machine permits will be required to pay an annual fee to their licensing authority.

Will I have to abide by any new rules after 1 September 2007?

Your existing Section 34 permit will continue to have effect after 1 September 2007 as if it were a licensed premises gaming machine permit issued under the new Act. You will continue to be entitled to offer the same number of gaming machines that your Section 34 permit entitled you to offer.

It is important to note that from 1 September 2007 you will be required to abide by the Gambling Commission's code of practice for gaming machines in alcohol licensed premises. You will be able to find a copy of the code of practice on the Gambling Commission's website, and they will also seek to raise awareness about the code of practice through trade bodies in the run up to 1 September 2007.

The relevant rules relating to licensed premises gaming machine permits set out in Schedule 13 of the Act will also apply to your permit. These include the rules relating to the cancellation, forfeiture and transfer of permits.

Automatic entitlement – notification procedure

I only have one or two gaming machines, and don't want any more. How will the automatic entitlement work?

There is a simple notification procedure: Before your section 34 permit expires, you should write to the licensing authority notifying it of your intention to make one or two gaming machines (Category C or D) available in your pub, in accordance with the automatic entitlement.

Further information about the notification procedure will be available from the licensing authority, and on the Gambling Commission and DCMS websites.

It is important to note that you will need to submit the prescribed fee with your notification. If you do not, you will forfeit your automatic entitlement, and if you continue to offer gaming machines in your premises you will be doing so illegally.

Licensed premises gaming machine permit

I currently have three or more gaming machines and wish to offer the same number in the future. How do I obtain a licensed premises gaming machine permit?

No later than two months before the expiry date on your section 34 permit, you should apply to the licensing authority for a licensed premises gaming machine permit.

Will I qualify for continuation rights?

Yes. If you apply at least two months before the expiry date on your Section 34 permit, you will continue to be able to make your gaming machines available for use until your application is finally resolved.

Will I qualify for grandfather rights?

Yes. Particular grandfather rights will apply to pubs and other alcohol licensed premises. If you currently have a Section 34 permit authorising three or more machines, you will be entitled to a licensed premises gaming machine permit which authorises the same number of gaming machines under the new Act.

You will only lose your grandfather rights in the rare event that your Section 34 permit is cancelled or forfeited.

Holders of Section 34 permits authorising two machines or less will technically not qualify for grandfather rights, as they will have an automatic entitlement to offer up to two gaming machines under the new Act. The automatic entitlement means that they will not be disadvantaged in any way.

What will I need to submit with my application?

You will be able to obtain information about application procedures from the licensing authority. More information about applying for permits will also be available on the DCMS website.

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

The licensing authority could only refuse your application for a grandfathered permit if you have failed to submit any information which must be given when applications are made. Where the licensing authority writes requesting the relevant information it will not be under a duty to grant the application until the information is provided. If the licensing authority specifies a period in the notice (being not less than 14 days), but you fail to comply with the request before the end of that period, continuation rights will be lost. However the licensing authority will still be under a duty to grant the grandfathered permit once the information is supplied.

What do I do if I currently have one or two gaming machines and I want to offer more than two in the future?

You will need to make a fresh application for a licensed premises gaming machine permit under the new Act. Grandfather rights will not apply, and the licensing authority will need to consider the application on its merits. You will, of course, still be able to exercise your automatic entitlement to two machines, even if the licensing authority refuses your application for a permit in respect of three or more machines.

What do I do if I currently have three or more gaming machines and I want to offer more than I currently do in the future?

You will need to apply for a licensed premises gaming machine permit under the new Act. Grandfather rights will only apply to however many machines your Section 34 permit currently entitles you to offer. The licensing authority will be required to issue you with a permit under the 2005 Act authorising that number of machines. The licensing authority will consider your application for more machines on its merits.

Pubs – New operators

This part applies to pubs and other alcohol licensed premises which:

- want to obtain a first Section 34 permit to offer gaming machines before 31 August 2007; and
- wish to go on offering these facilities under the new Act.

What do I do if I want to apply for a first permit to begin before 1 September 2007?

You should apply to your licensing authority for a Section 34 permit under the old legislation. If successful your application will normally be granted for three years. As long as you apply on or before 31 August 2007, your licensing authority will still be able to resolve your application under the old Act, even if it is not able to do so until after 31 August. However, you should note that all such permits will cease to have effect on 31 August 2010. You will then be treated like any other existing operator, and you should follow the same advice above to convert your Section 34 permit into the relevant permission under the new Act.

New operators may also apply to their licensing authority for a permit under the new Act from 1 June 2007, but it is important to note that they would not be able to operate by virtue of a 2005 Act permit before 1 September 2007.

What do I do if I want to apply for a first permission on or after 1 September 2007?

You must make a notification/application to your licensing authority for the appropriate permission under the 2005 Act. Applications may be made from 1 June 2007.