



# Gaming Act 1968

## 1968 CHAPTER 65

### PART IV

#### MISCELLANEOUS AND SUPPLEMENTARY PROVISIONS

#### **40 Special charges for play at certain clubs and institutes,**

- (1) This section applies to gaming which—
  - (a) is carried on as one of the activities of a members' club or a miners' welfare institute, whether the club or institute is registered under Part II or Part III of this Act or not, and
  - (b) is gaming in respect of which none of the conditions specified in section 2(1) of this Act is fulfilled.
- (2) Subject to the following provisions of this section, nothing in section 3 or section 14 of this Act shall have effect so as to prevent a charge from being made in respect of any person for the right to take part in gaming to which this section applies, if the charge made in respect of that person for the right to take part in such gaming on any one day does not exceed sixpence or such other sum as may be specified in an order made by the Secretary of State for the purposes of this subsection.
- (3) Any such charge as is mentioned in subsection (2) of this section may be made in addition to—
  - (a) any stakes hazarded in the gaming, and
  - (b) in the case of a club or institute registered under Part II of this Act, any charge authorised by regulations under section 14(2)(b) of this Act.
- (4) The preceding provisions of this section shall not have effect in relation to a members' club unless it is shown—
  - (a) that it is constituted and conducted in good faith as a members' club;
  - (b) that it has not less than twenty-five members ; and
  - (c) that it is so constituted and conducted, in respect of membership and otherwise, as not to be of a temporary character.

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#### **41 Gaming at entertainments not held for private gain**

- (1) The provisions of this section shall have effect in relation to gaming which—
  - (a) consists of games played at an entertainment promoted otherwise than for purposes of private gain, and
  - (b) is not gaming to which Part II of this Act applies or gaming by means of a machine to which Part III of this Act applies, and
  - (c) does not constitute the provision of amusements with prizes in the circumstances specified in section 48(1) or section 49(1) of the Act of 1963 ;and any reference in this Act to gaming to which this section applies is a reference to gaming in respect of which the conditions specified in paragraphs (a) to (c) of this subsection are fulfilled.
- (2) Section 2 of this Act shall have effect in relation to gaming to which this section applies as it has effect in relation to gaming to which Part I of this Act applies.
- (3) In respect of all games played at the entertainment which constitute gaming to which this section applies, not more than one payment (whether by way of entrance fee or stake or otherwise) shall be made by each player, and no such payment shall exceed ten shillings.
- (4) Subject to subsections (7) and (8) of this section, the total value of all prizes and awards distributed in respect of those games shall not exceed fifty pounds.
- (5) The whole of the proceeds of such payments as are mentioned in subsection (3) of this section, after deducting sums lawfully appropriated on account of expenses or for the provision of prizes or awards in respect of the games, shall be applied for purposes other than private gain.
- (6) The sum appropriated out of those proceeds in respect of expenses shall not exceed the reasonable cost of the facilities provided for the purposes of the games.
- (7) Where two or more entertainments are promoted on the same premises by the same persons on the same day, subsections (3) to (6) of this section shall have effect in relation to those entertainments collectively as if they were a single entertainment.
- (8) Where a series of entertainments is held otherwise than as mentioned in subsection (7) of this section—
  - (a) subsections (3) to (6) of this section shall have effect separately in relation to each entertainment in the series, whether some or all of the persons taking part in any one of those entertainments are thereby qualified to take part in any other of them or not, and
  - (b) if each of the persons taking part in the games played at the final entertainment of the series is qualified to do so by reason of having taken part in the games played at another entertainment of the series held on a previous day, subsection (4) of this section shall have effect in relation to that final entertainment as if for the words "fifty pounds" there were substituted the words " one hundred pounds " .
- (9) The Secretary of State may by order provide that, in relation to entertainments held on or after the date on which the order comes into operation, this section shall have effect as if, for such one or more of the following sums as may be specified in the order, that is to say—
  - (a) the sum of ten shillings specified in subsection (3) of this section;

- (b) the sum of fifty pounds specified in subsections (4) and (8)(b) of this section ;  
and
  - (c) the sum of one hundred pounds specified in subsection (8)(b) of this section,  
there were substituted such larger sum as is specified in the order.
- (10) Subsections (1) to (4) of section 8 of this Act shall have effect as if in those subsections any reference to sections 2 to 4 or to Part I of this Act included a reference to this section.
- (11) Subsections (1) and (3) of section 54 of the Act of 1963 (construction of certain references to private gain) shall have effect for the purposes of this section.

## **42 Restrictions on advertisements relating to gaming**

- (1) Except as provided by this section, no person shall issue, or cause to be issued, any advertisement—
- (a) informing the public that any premises in Great Britain are premises on which gaming takes place or is to take place, or
  - (b) inviting the public to take part as players in any gaming which takes place, or is to take place, on any such premises, or to apply for information about facilities for taking part as players in any gaming which takes place, or is to take place, in Great Britain, or
  - (c) inviting the public to subscribe any money or money's worth to be used in gaming whether in Great Britain or elsewhere, or to apply for information about facilities for subscribing any money or money's worth to be so used.
- (2) The preceding subsection does not apply to any advertisement in so far as it relates to gaming which is, or is to be.—
- (a) gaming as an incident of an entertainment to which section 33 of this Act applies, or
  - (b) gaming to which section 41 of this Act applies, or
  - (c) gaming on any premises to which paragraph 4 of Schedule 9 to this Act applies and in respect of which a permit under section 34 of this Act is for the time being in force, or
  - (d) gaming on any premises to which paragraph 4 of Schedule 6 to the Act of 1963 applies and in respect of which a permit under section 49 of that Act is for the time being in force, or
  - (e) gaming at any travelling showmen's pleasure fair.
- (3) Subsection (1) of this section does not apply to—
- (a) the display, on any premises in respect of which a licence under this Act is for the time being in force, of a sign or notice indicating that gaming takes place, or is to take place, on those premises, whether the sign or notice is displayed inside or outside the premises, or
  - (b) the publication or display of a notice, where the notice is required to be published or displayed by any provision of Schedules 2 to 4 to this Act and the publication or display is so made as to comply with the requirements of that provision, or
  - (c) the publication in any newspaper of a notice stating that a licence under this Act has been granted, if the notice is published not later than fourteen days from the date on which the licence was granted or from such later date as may

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be appointed by the licensing authority by whom the licence was granted, and the notice is in a form approved by the licensing authority;

and, in the case of any premises in respect of which a club is for the time being registered under Part II or Part III of this Act, subsection (1) of this section shall not apply to any advertisement by reason only that it contains the name of the club.

- (4) Subsection (1) of this section does not apply to the publication of an advertisement in a newspaper which circulates wholly or mainly outside Great Britain.
- (5) Where a person is charged with an offence under this section, it shall be a defence to prove that he is a person whose business it is to publish or arrange for the publication of advertisements and that he received the advertisement in question for publication in the ordinary course of business and did not know and had no reason to suspect that its publication would amount to an offence under this section.
- (6) For the purposes of this section an advertisement issued by displaying or exhibiting it shall be treated as issued on every day on which it is displayed or exhibited.
- (7) Subject to subsection (5) of this section, any person who contravenes subsection (1) of this section shall be guilty of an offence and liable—
  - (a) on summary conviction, to a fine not exceeding £400;
  - (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both.
- (8) In this section "advertisement" includes every form of advertising, whether in a publication or by the display of notices or by means of circulars or other documents or by an exhibition of photographs or a cinematograph film, or by way of sound broadcasting or television, and references to the issue of an advertisement shall be construed accordingly ; and "the public" means the public in Great Britain, and includes any section of the public in Great Britain, however selected.

#### **43 Provision for inspectors and rights of entry and related rights**

- (1) The Board may appoint such number of persons as the Secretary of State may with the consent of the Treasury determine to be inspectors for the purposes of this Act; and in this Act "inspector" means any person so appointed.
- (2) Any inspector or constable may at any reasonable time enter any premises in respect of which a licence under this Act is for the time being in force, and, while on any such premises, may inspect the premises and any machine or other equipment on the premises and any book or document on those premises which the inspector or constable reasonably requires to inspect for the purpose of ascertaining whether a contravention of this Act or of any regulations made under it is being or has been committed.
- (3) If any person, being the holder of a licence under this Act in respect of any premises or a person acting on behalf of the holder of such a licence.—
  - (a) fails without reasonable excuse to admit an inspector or constable who demands admission to the premises in pursuance of subsection (2) of this section, or
  - (b) on being required by an inspector or constable to do so, fails without reasonable excuse to permit the inspector or constable to inspect the premises or any machine or other equipment on the premises, or

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- (c) on being required by an inspector or constable to produce any book or document in his possession or under his control which relates to those premises and which the inspector or constable reasonably requires to inspect for the purpose specified in subsection (2) of this section, fails without reasonable excuse to produce it to the inspector or constable and to permit the inspector or constable (if he so desires) to take copies of it or of any entry in it, or
- (d) on being required by an inspector to furnish any information relating to the premises which is reasonably required by the Board for the purposes of the performance of their functions, fails without reasonable excuse to furnish that information to the inspector,

the holder of the licence shall be guilty of an offence.

- (4) If, on information on oath with respect to any premises.—
  - (a) a justice of the peace, if the premises are in England or Wales, or
  - (b) the sheriff or a magistrate or justice of the peace having jurisdiction in the place where the premises are situated, if they are situated in Scotland,is satisfied that there are reasonable grounds for suspecting that an offence under this Act is being, has been or is about to be committed on those premises, he may issue a warrant in writing authorising any constable, with or without one or more inspectors, to enter the premises, if necessary by force, at any time within fourteen days from the time of the issue of the warrant and to search the premises.
- (5) Any constable who enters any premises under the authority of a warrant issued under subsection (4) of this section may—
  - (a) seize and remove any document, money or valuable thing, instrument or other thing whatsoever found on the premises which he has reasonable cause to believe may be required as evidence for the purposes of proceedings in respect of an offence under this Act, and
  - (b) arrest and search any person found on the premises whom he has reasonable cause to believe to be committing or to have committed any such offence.
- (6) Without prejudice to any power exercisable by virtue of the preceding provisions of this section, in the case of any premises in respect of which a licence under this Act is for the time being in force or a club or a miners' welfare institute is for the time being registered under Part II or Part III of this Act the Board may at any time serve on the holder of the licence or the chairman or secretary of the club or institute, as the case may be, a notice requiring him, in such manner and within such reasonable time as may be specified in the notice—
  - (a) to produce for inspection by or on behalf of the Board books or documents relating to those premises of any description specified in the notice which the Board reasonably require to inspect for the purpose specified in subsection (2) of this section, and
  - (b) to furnish to the Board information relating to those premises of any description specified in the notice which the Board reasonably require for that purpose.
- (7) Any power exercisable by the Board by virtue of subsection (6) of this section in respect of any premises shall also be exercisable by the chief officer of police (or, in Scotland, the chief constable) for the police area in which the premises are situated, as if in that subsection any reference to the Board included a reference to that chief officer or chief constable.

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- (8) If without reasonable excuse any requirement imposed in relation to any premises by a notice served by virtue of subsection (6) or subsection (7) of this section is not complied with.—
- (a) the holder of the licence, if they are premises in respect of which a licence under this Act is for the time being in force, or
  - (b) every officer of the club or institute, if they are premises in respect of which a club or a miners' welfare institute is for the time being registered under Part II or Part III of this Act,
- shall be guilty of an offence.
- (9) In the case of any premises in respect of which a licence under this Act is for the time being in force, any person duly authorised in writing by the fire authority (within the meaning of the Fire Services Act 1947) in whose area the premises are situated may at any reasonable time enter the premises for the purpose of ascertaining whether appropriate precautions against the danger of fire are being sufficiently observed ; and, in relation to a person so authorised subsection (3) of this section (with the omission of paragraphs (c) and (d)) shall have effect as if in that subsection—
- (a) any reference to an inspector or constable were a reference to a person so authorised, and
  - (b) the reference in paragraph (a) to subsection (2) of this section were a reference to the preceding provisions of this subsection.
- (10) Any person guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding £200.

#### **44 Local authority not to maintain or contribute to premises licensed under Part II**

- (1) No local authority shall maintain, or contribute towards the maintenance of, any premises in respect of which a licence under this Act is for the time being in force.
- (2) Section 39 of the Act of 1963 (local authorities not to subsidise premises for gaming) shall cease to have effect.
- (3) In this section " local authority ", in relation to England and Wales, means the council of a county, county borough, London borough or county district, the Greater London Council and the Common Council of the City of London, and, in relation to Scotland, means a county council, town council or district council.

#### **45 Offences by bodies corporate**

- (1) Where an offence under this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.
- (2) In this section " director ", in relation to a body corporate established by or under any enactment for the purpose of carrying on under national ownership any industry or part of an industry or undertaking, being a body corporate whose affairs are managed by its members, means a member of that body corporate.

#### **46 Forfeiture**

- (1) Subject to the next following subsection, the court by or before which a person is convicted of an offence under this Act may order anything produced to the court, and shown to the satisfaction of the court to relate to the offence, to be forfeited and either destroyed or dealt with in such other manner as the court may order.
- (2) The court shall not order anything to be forfeited under this section, where a person claiming to be the owner of or otherwise interested in it applies to be heard by the court, unless an opportunity has been given to him to show cause why the order should not be made.

#### **47 Service of documents**

Any notice or other document required or authorised by any provision of this Act to be served on any person, or to be given or sent to any person, except a notice under section 12(3)(b) of this Act, may be served, given or sent—

- (a) by delivering it to him; or
- (b) by sending it by post to him at his usual or last-known residence or place of business in the United Kingdom ; or
- (c) in the case of a body corporate, by delivering it to the secretary or clerk of the body corporate at its registered or principal office or sending it by post to the secretary or clerk of that body corporate at that office.

#### **48 Financial provisions**

- (1) All expenses incurred by the Secretary of State under this Act, together with—
  - (a) any expenses incurred by the Board under paragraph 6 of Schedule 1 to this Act, and
  - (b) to such amount as the Secretary of State with the consent of the Treasury may approve, any other expenses incurred by the Board,shall be defrayed out of moneys provided by Parliament.
- (2) There shall be paid out of moneys provided by Parliament any increase attributable to this Act in the sums payable out of moneys so provided under any other enactment.
- (3) Except as provided by subsection (4) of this section the following fees shall be charged under this Act, that is to say—
  - (a) in respect of the grant of a licence under this Act, a fee of £1,000;
  - (b) in respect of the renewal of such a licence, a fee of £200;
  - (c) in respect of the transfer of such a licence, a fee of £150;
  - (d) in respect of the registration of a club or a miners' welfare institute under Part II of this Act, a fee of £20, and, in respect of the renewal of any such registration, a fee of £10 ;
  - (e) in respect of the registration of a club or a miners' welfare institute under Part III of this Act, a fee of £10, and, in respect of the renewal of any such registration, a fee of £5 ;
  - (f) in respect of the issue of a certificate of approval under Part I of Schedule 5 to this Act, a fee of £5 ;
  - (g) in respect of the issue of a certificate under section 27 of this Act, a fee of £250, and, in respect of the renewal of any such certificate, a fee of £100 ;

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- (h) in respect of the grant or renewal of a permit under section 34 of this Act, a fee of twenty-five shillings.
- (4) Where on the grant or renewal of a licence under this Act in respect of any premises the licensing authority impose any restrictions under paragraph 25 of Schedule 2 to this Act limiting gaming to which Part II of this Act applies to the playing of bingo, the fee to be charged—
  - (a) under paragraph (a) of subsection (3) of this section, shall be £250 instead of £1,000, and
  - (b) under paragraph (b) of that subsection, shall be £100 instead of £200;and, if the licence is transferred while those restrictions continue to be in force, the fee to be charged under paragraph (c) of that subsection shall be £50 instead of £150.
- (5) The Secretary of State may by order direct that any provision of subsection (3) or subsection (4) of this section which is specified in the order shall have effect as if, for any reference in that provision to a sum so specified, there were substituted a reference to such other sum as may be so specified.
- (6) All fees charged in accordance with paragraph (f) or paragraph (g) of subsection (3) of this section, and all fees charged in Scotland in accordance with paragraph (d) or paragraph (e) of that subsection, shall be paid into the Exchequer.

#### **49 Provision of information by licensing authorities and sheriff clerks**

Schedule 10 to this Act shall have effect with respect to—

- (a) the performance by or on behalf of licensing authorities of certain functions in connection with licences under this Act and in connection with registration in England and Wales under Part II or Part III of this Act, and
- (b) the performance by sheriff clerks of certain functions in connection with registration in Scotland under Part II or Part III of this Act.

#### **50 Annual report of Board**

The Board shall, at such time in each year as the Secretary of State may direct, send to the Secretary of State a report with respect to the performance of their functions; and the Secretary of State shall lay before Parliament a copy of every such report.

#### **51 Regulations and orders**

- (1) Subject to the next following subsection, the Secretary of State may make regulations for any purpose for which regulations are authorised or required to be made under this Act.
- (2) The Secretary of State shall not make any regulations under this Act except after consultation with the Board.
- (3) Any power to make regulations under this Act may be exercised so as to make different provision for different areas or in relation to different cases or different circumstances to which the power is applicable.
- (4) Any power conferred by this Act to make an order shall include power to vary or revoke the order by a subsequent order.



- (5) Any power to make regulations or orders under this Act shall be exercisable by statutory instrument; and any statutory instrument containing any such regulations or order (except any order under section 54 of this Act) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

## 52 Interpretation

- (1) In this Act, except in so far as the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say:—

" the Act of 1963 " means the Betting, Gaming and Lotteries Act 1963 ;

" the Board " means the Gaming Board for Great Britain established under this Act;

" game of chance " does not include any athletic game or sport, but, with that exception, and subject to subsection (6) of this section, includes a game of chance and skill combined and a pretended game of chance or of chance and skill combined;

" gaming " (subject to subsections (3) to (5) of this section) means the playing of a game of chance for winnings in money or money's worth, whether any person playing the game is at risk of losing any money or money's worth or not;

" inspector " has the meaning assigned to it by section 43 of this Act;

" licensing authority " has the meaning assigned to it by paragraph 1 of Schedule 2 to this Act;

" machine " includes any apparatus ;

" premises " includes any place ;

" prescribed " means prescribed by regulations made under this Act;

" travelling showmen's pleasure fair " means a pleasure fair consisting wholly or mainly of amusements provided by travelling showmen which is held on any day of a year on premises not previously used in that year on more than twenty-seven days for the holding of such a pleasure fair;

" vehicle " includes a railway carriage and also includes an aircraft while it is on the ground and a hover vehicle (that is to say, a vehicle designed to be supported on a cushion of air) whether it is on the ground or not;

" vessel " includes any ship, boat, raft or other apparatus constructed or adapted for floating on water ;

" winnings " includes any prize or other winnings of any kind and any reference to the amount or to the payment of winnings shall be construed accordingly.

- (2) In this Act " miners' welfare institute " means an association organised for the social well-being and recreation of persons employed in or about coal mines (or of such persons in particular) where either—

(a) the institute is managed by a committee or board of which not less than two-thirds consists partly of persons appointed by or on the nomination of, or appointed or elected from among persons nominated by, the National Coal Board and partly of persons appointed by or on the nomination of, or appointed or elected from among persons nominated by, an organisation or organisations representing persons so employed, or

(b) the premises of the institute, if they are in England or Wales, are held on trusts to which section 2 of the Recreational Charities Act 1958 applies, or, if they

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are in Scotland, are held on trust for charitable purposes ("charitable" being construed in the same way as if it were contained in the Income Tax Acts).

- (3) Where apart from this subsection the playing of a game of chance would constitute gaming and also constitutes a lottery, then if—
- (a) in so far as it is a lottery, it is a lottery promoted as mentioned in section 43(1) of the Act of 1963 (exemption of small lotteries incidental to certain entertainments) or is a private lottery as defined by section 44(1) of that Act or is a lottery promoted as mentioned in section 45(1) of that Act (exemption of certain small lotteries conducted for charitable, sporting or other purposes), and
  - (b) each winner of a prize is ascertained by reference to not more than three determining factors, each of those factors being either the result of a draw or other determination or the outcome of an event,
- the playing of the game shall not constitute gaming for the purposes of this Act.
- (4) In this Act "gaming" does not include the making of bets by way of pool betting.
- (5) For the purposes of this Act a machine shall be taken not to be used for gaming if it is used in such a way that no game played by means of the machine can result in a player, or a person claiming under a player, receiving or being entitled to receive any article, benefit or advantage other than one (but not both) of the following, that is to say—
- (a) an opportunity afforded by the automatic action of the machine to play one or more further games without the insertion of any cash or token;
  - (b) the delivery by means of the machine of one or more coins or tokens as a prize in respect of a game where one or more coins or tokens of an equal or greater value or aggregate value were inserted into the machine by or on behalf of the player in order to play that game.
- (6) In determining for the purposes of this Act whether a game, which is played otherwise than against one or more other players, is a game of chance and skill combined, the possibility of superlative skill eliminating the element of chance shall be disregarded.
- (7) For the purposes of any provision of this Act which relates to making a charge, or charging a levy, it is immaterial whether a charge or levy is compulsory, customary or voluntary, and any reference to making a charge or charging a levy shall be construed accordingly.
- (8) Subject to subsections (1) to (7) of this section, expressions used in this Act to which a meaning is assigned by section 55(1) of the Act of 1963 have the same meanings in this Act as in that Act.
- (9) Except in so far as the context otherwise requires, any reference in this Act to an enactment shall be construed as a reference to that enactment as amended or extended by or under any other enactment, including this Act.

### **53 Minor and consequential amendments, and repeals**

- (1) Subject to the provisions of any order made under the following section—
- (a) the Act of 1963 shall have effect subject to the amendments specified in Part I of Schedule 11 to this Act, and the Schedule set out in Part II of Schedule 11 to this Act shall be substituted for, and shall constitute, Schedule 6 to that Act;
  - (b) the enactments specified in Part III of Schedule 11 to this Act shall have effect subject to the amendments specified in that Part of that Schedule ; and

- (c) the enactments specified in Schedule 12 to this Act are hereby repealed to the extent specified in the third column of that Schedule.
- (2) The rules of law relating to common gaming houses are hereby abolished.

#### **54 Short title, extent and commencement**

- (1) This Act may be cited as the Gaming Act 1968.
- (2) This Act (except section 10(4)) shall not extend to Northern Ireland.
- (3) Sections 10, 43(1), 48, 51 and 52 of this Act and this section and Schedule 1 to this Act shall come into operation on the passing of this Act.
- (4) Subject to the last preceding subsection, the provisions of this Act shall come into operation on such day as the Secretary of State may by order appoint, and different days may be so appointed for different provisions of this Act or for different purposes (including, in the case of any provision of section 53 of this Act, the amendment or repeal of different enactments to which that provision is applicable).
- (5) Any order made under this section may make such transitional provision as appears to the Secretary of State to be necessary or expedient in connection with the provisions of this Act which are thereby brought (wholly or in part) into force, including such adaptations of those provisions or any provision of this Act then in force as appear to him to be necessary or expedient in consequence of the partial operation of this Act (whether before, on or after the day appointed by the order).