

*These notes refer to the Gambling Act 2005 (c.19)
which received Royal Assent on 7 April 2005*

GAMBLING ACT 2005

EXPLANATORY NOTES

TERRITORIAL EXTENT

Territorial limits – vessels and aircraft

Schedule 11: Exempt lotteries

Part 12: Clubs, Pubs, Fairs, &C.

669. This Part provides certain gaming allowances, and additional authorisation procedures for gaming and gaming machines for:
- Members' clubs;
 - Commercial clubs;
 - Miners' welfare institutes;
 - Alcohol licensed premises; and
 - Travelling fairs.
670. Under the Gaming Act 1968 these various associations, premises and entities are afforded particular gaming entitlements, either as of right, or with express permission. Once commenced, this Act repeals those provisions of the 1968 Act, and this Part provides a replacement regime. This Part does not provide any entitlements to conduct betting or lotteries, only gaming and the use of gaming machines.
671. Part 10 of the Act contains power for the categorisation of gaming machines, which is relevant to this Part. Part 18 of the Act contains sections which make provision for determining the value of a prize, and defining participation fee and stake.
672. Where a reference is made in this Part to a Commission code of practice, it means a statutory code of practice, issued under the Commission's powers in Part 2 of the Act.
673. This Part contains powers for Scottish Ministers to make regulations about the procedural requirements for club gaming permits and club gaming machine permits and licensed premises gaming machine permits in Scotland.

Sections 266 to 268: Definitions of eligible clubs

674. There are three categories of eligible club: members' clubs, commercial clubs and miners' welfare institutes. To take advantage of the various gaming rights in Part 12 a club has to bring itself within one of these categories (although not all gaming rights are equally available to all three categories of club).
675. **Members' clubs** must have at least 25 members and be established and conducted wholly or mainly for purposes other than gaming (unless the gaming is of a prescribed kind). They are to be established and conducted for the benefit of their members. They are also to be established with the intention of operating on an ongoing basis, and not

temporarily. Examples of such clubs would include local political associations, working men's clubs or branches of the Royal British Legion.

676. *Subsection (2)* permits the Secretary of State to prescribe particular kinds of gaming. It is proposed that bridge and whist be so prescribed. This allows members' clubs established for the purposes of providing such gaming to take advantage of rights under Part 12, notwithstanding the restriction in subsection (1)(a). This maintains the position under the Gaming Act 1968. See also the provision for exempt gaming under section 269(1)(c).
677. **Commercial clubs** are subject to the same conditions as members' clubs, except that members' clubs must not operate as a commercial enterprise which benefits a class of people different to the members. Commercial clubs, on the other hand, can. These clubs can also be known as proprietary clubs. An example of a commercial club would be a snooker club. Like members' clubs, commercial clubs may also be gaming clubs, provided the gaming is of a type prescribed in regulations under *subsection (2)*, although this proviso does not apply to exempt gaming under section 269.
678. The definition of **miners' welfare institutes** has been amended from that contained in the Gaming Act 1968. Under Part 12 miners' welfare institutes are associations established for social or recreational purposes, where the association is either managed by a group of miners' representatives or uses premises regulated under a charitable trust, where the trust has, at some time, received funds from one of a number of mining related organisations. The definition of "miners' representative" has been revised to take account of changes in mining communities and ex-mining communities. Furthermore, the alternative limb for qualification as a miners' welfare institute has been amended to allow for the broader social aims that institutes in ex-mining areas now promote. The definition in section 268 replaces that in the Gaming Act 1968.

Sections 269 & 270: Exempt gaming

679. This section permits members' clubs, commercial clubs and miners' welfare institutes to provide certain facilities for gaming without the need for any express authorisation. In order to qualify for this exemption the gaming must meet a number of conditions:
- It must be equal chance gaming, as defined in Part 1 of the Act;
 - Stakes and prizes must be in accordance with any rules or limits prescribed in regulations;
 - The club must not deduct any amounts from sums staked or won in the gaming;
 - Any charge for participation (which is broadly defined) must not exceed amounts prescribed in regulations (and see section 344);
 - The games played may only take place on one set of premises meaning there may not be any linking of games between premises; and
 - People may only participate in the gaming if they have been a member of the club (or applied or were nominated for membership) at least 48 hours before playing, or are the genuine guests of such a person (but this does not apply to commercial clubs).
680. These conditions are similar to those set out in section 40 of the 1968 Act, which the Act repeals, with the exception of the restriction on linking games and the addition of a power to prescribe maximum stakes and prizes, which are new. The gaming allowances under section 269 may be used by any members' or commercial club that is permanent and has at least 25 members, even if it is established for gaming. There is no requirement for the gaming to be of a prescribed kind (see section 269(1)(c) and (d)).

681. Under section 270, subsections (2) and (4), different requirements about the limits on stakes, prizes, and participation fees may be set for different types of club or institute, for different types of game, and for different types of fee.

Sections 271 & 272: Club gaming permit

682. Members' clubs (but not commercial clubs) and miners' welfare institutes may apply for a club gaming permit from a licensing authority to authorise the provision of games of chance and gaming machines on premises from which the club operates. This permit allows clubs and institutes to offer gaming facilities, in addition to those available under the exempt gaming allowances. Schedule 12 sets out the procedure and rules for this permit.
683. The club gaming permit will authorise the provision of up to 3 gaming machines in categories B, C or D (but no more than 3 machines in total). The permit is subject to the condition that no person under 18 shall use a Category B or C machine, and the holder of the permit must comply with a Commission code of practice about the location and operation of gaming machines.
684. The club gaming permit will also authorise additional gaming facilities to be provided. This gaming falls into two types:
- Equal chance gaming. This is equivalent to that authorised under the exempt gaming allowances in sections 269 and 270, but without any prescribed limits on maximum stakes or prizes. The other conditions set for exempt gaming apply equally to this entitlement; and
 - Such games of chance as are prescribed in regulations. This provision allows the Secretary of State to authorise particular games involving a bank or unequal chance games to be played under the permit. Under the Gaming Act 1968 pontoon and chemin de fer were permitted. This gaming is subject to a number of conditions set out in section 217(4), and also rules which the Secretary of State may prescribe.
685. The Secretary of State may make regulations which set different maximum participation fees for exempt gaming and gaming authorised by a club gaming permit. By this means a club which holds a club gaming permit can be permitted to make different charges for equal chance gaming, to a club which relies solely on the exempt gaming provisions in section 269.

Section 273: Club machine permit

686. Under this section a club machine permit is available to a members' club, miners' welfare institute or a commercial club. This type of permit authorises the holder to provide up to 3 gaming machines in Category B, C or D (but no more than 3 machines in total) on premises from which the club operates. It does not authorise the provision of any other type of facilities for gaming. Three conditions are automatically attached to a club machine permit. These relate to prior membership for use of the machines (but not for a commercial club), restrictions on giving children and young people access to Category C or B machines; and requiring compliance with Commission codes of practice about the location and operation of machines.
687. [Schedule 12](#) sets out the procedure in relation to an application for a club machine permit, and the rules which apply to its maintenance and validity.

Section 274: Procedure

688. [Schedule 12](#) contains the detailed rules for the two types of club permit, in relation to England and Wales. In relation to Scotland, different procedures to those in [Schedule 12](#) will apply if Scottish Ministers exercise their powers under section 285. These powers enable different procedural rules to be set for clubs or institutes holding a certificate of

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registration under the Licensing (Scotland) Act 1976, or for clubs or institutes of such other type as may be specified in the regulations.