

GAMBLING ACT 2005

EXPLANATORY NOTES

TERRITORIAL EXTENT

Territorial limits – vessels and aircraft

Schedule 15: Private gaming and betting

Part 16: Advertising

Section 330: Unlawful gambling

808. This section makes it an offence to advertise unlawful gambling. For these purposes, advertised gambling is unlawful if it requires a licence, notice, permit, registration or exception under this Act (“a licence etc.”), in order for the gambling to take place without an offence under the Act being committed, and arrangements for the licence etc. have not been made at the time of advertising, or the exception does not apply to the arrangements. Take, for example, facilities for casino gaming which require operating, personal and premises licences to be obtained in order that the gaming can be provided without an offence being committed. Unless the necessary licences have been obtained at the time of advertising, any advertising of the gambling will constitute an offence under this section. The offence covers advertising of unlawful gambling whether the advertising takes place by remote or non-remote means, and sections 332 and 333 make specific provision about this.
809. The offence does not apply to lotteries. Part 11 of the Act contains separate provisions relating to the advertising of unlawful lotteries.
810. A person who commits the offence by doing anything to encourage people to gamble, or bringing facilities for gambling or information about them to the attention of others with a view to increasing their use, will have a defence if they can show that they reasonably believed the gambling to be lawful. People who commit the offence by participating in or facilitating such an activity will only commit the offence if they know or ought to have known the gambling to be unlawful.
811. There is also an exemption from this offence for peoples who advertise gambling because they merely deliver, transmit, broadcast or make data available in the course of business, without having any editorial control over the nature or content of the material.
812. A person guilty of an offence under this section shall be liable on summary conviction to imprisonment for a term not exceeding 51 weeks for England and Wales (6 months for Scotland), a fine not exceeding level 5 on the standard scale, or both. An offence committed under this section shall be treated as a continuing offence which means that an offence shall be committed on each day during any period that the advertisement is displayed or made accessible.