



# Gambling Act 2005

## 2005 CHAPTER 19

### PART 18

#### MISCELLANEOUS AND GENERAL

##### *General*

### 353 Interpretation

(1) In this Act, except where the context otherwise requires—

- “adult” means an individual who is not a child or young person,
- “adult gaming centre” has the meaning given by section 237,
- “alcohol licence” has the meaning given by section 277,
- “authorised local authority officer” has the meaning given by section 304,
- “authorised person” has the meaning given by that section,
- “betting” has the meaning given by sections 9 to 11, 37 and 150,
- “betting intermediary” has the meaning given by section 13,
- “bingo” means any version of that game, irrespective of by what name it is described,
- “casino” has the meaning given by section 7,
- “casino game” has the meaning given by that section,
- “Category A gaming machine” (or B, C or D) means a gaming machine falling within Category A (or B, C or D) as prescribed under section 236,
- “chief constables of police forces” has the same meaning in relation to England and Wales as in the Police Act 1996 (c. 16),
- “child” has the meaning given by section 45,
- “club gaming permit” has the meaning given by section 271,
- “club machine permit” has the meaning given by section 273,
- “commercial club” has the meaning given by section 267,
- “the Commission” means the Gambling Commission,
- “director”—

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- (a) has the meaning given by section 741 of the Companies Act 1985 (c. 6),  
and
- (b) includes a shadow director within the meaning of that section,  
“dog track” means premises which are designed, used or adapted for use  
for dog-racing,  
“draw”, in relation to a lottery, has the meaning given by section 255,  
“EEA State” means a State which is a contracting party to the Agreement  
on the European Economic Area signed at Oporto on 2nd May 1992 (as it has  
effect from time to time),  
“enactment” includes an enactment comprised in, or in an instrument made  
under, an Act of the Scottish Parliament,  
“enforcement officer” means a person designated or appointed as an  
enforcement officer under section 303,  
“equal chance gaming” has the meaning given by section 8,  
“exempt lottery” has the meaning given by section 258,  
“external lottery manager” has the meaning given by section 257,  
“fair” has the meaning given by section 286,  
“family entertainment centre” has the meaning given by section 238,  
“family entertainment centre gaming machine permit” has the meaning  
given by section 247,  
“football pools” means an arrangement whereby—
  - (a) people compete for prizes by forecasting the results of association  
football games, and
  - (b) each entry to the competition must forecast the results of at least four  
games,
 “gambling” has the meaning given by section 3,  
 “gambling software” has the meaning given by section 41,  
 “game of chance” has the meaning given by section 6,  
 “gaming” has the meaning given by that section,  
 “gaming machine” has the meaning given by section 235,  
 “horse-race course” means premises which are designed, used or adapted  
for use for horse-racing,  
 “horse-race pool betting” has the meaning given by section 12,  
 “large casino” has the meaning given by regulations under section 7(5),  
 “licensed family entertainment centre” has the meaning given by  
section 238,  
 “licensed premises gaming machine permit” has the meaning given by  
section 283,  
 “the licensing objectives” has the meaning given by section 1,  
 “licensing authority” has the meaning given by section 2,  
 “lottery” has the meaning given by section 14 (and section 256),  
 “lottery manager’s operating licence” has the meaning given by section 98,  
 “lottery ticket” has the meaning given by section 253,  
 “machine” has the meaning given by section 235(3)(a),  
 “members’ club” has the meaning given by section 266,  
 “miners’ welfare institute” has the meaning given by section 268,

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“the National Lottery” has the meaning given by section 1 of the National Lottery etc. Act 1993 (c. 39)),

“non-commercial betting” has the meaning given by section 302,

“non-commercial gaming” has the meaning given by section 297,

“non-commercial society” has the meaning given by section 19,

“occasional use notice” means a notice given under section 39,

“operating licence” means a licence issued under Part 5,

“on-premises alcohol licence” has the meaning given by section 277,

“participant”, in relation to a game of chance, includes a person who discharges an administrative or other function in relation to the game,

“participation fee” has the meaning given by section 344,

“passenger vessel” means a vessel which is carrying or expected to carry at least one passenger,

“personal licence” means a licence issued under Part 6,

“pool betting” has the meaning given by section 12,

“premises” includes any place and, in particular—

(a) a vessel, and

(b) a vehicle,

“premises licence” means a licence issued under Part 8,

“private betting” has the meaning given by section 295 and Part 2 of Schedule 15,

“private gaming” has the meaning given by section 295 and Part 1 of Schedule 15,

“private gain” is to be construed in accordance with section 19(3),

“prize” in relation to gaming (except in the context of a gaming machine) has the meaning given by section 6,

“prize” in relation to a gaming machine has the meaning given by section 239,

“prize” in relation to a lottery has the meaning given by section 14,

“prize gaming” has the meaning given by section 288,

“prize gaming permit” has the meaning given by section 289,

“proceeds”, in relation to a lottery, has the meaning given by section 254,

“profits”, in relation to a lottery, has the meaning given by that section,

“profits”, in relation to non-commercial prize gaming, has the meaning given by section 299,

“racecourse” means premises on any part of which a race takes place or is intended to take place,

“real”, in relation to a game, event or process means non-virtual,

“relevant offence” has the meaning given by section 126 and Schedule 7,

“remote communication” has the meaning given by section 4,

“remote gambling” has the meaning given by that section,

“remote gambling equipment” has the meaning given by section 36,

“remote operating licence” has the meaning given by section 67,

“rollover”, in relation to a lottery, has the meaning given by section 256,

“small casino” has the meaning given by regulations under section 7(5),

“society” includes a branch or section of a society,

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“stake” means an amount paid or risked in connection with gambling and which either—

- (a) is used in calculating the amount of the winnings or the value of the prize that the person making the stake receives if successful, or
- (b) is used in calculating the total amount of winnings or value of prizes in respect of the gambling in which the person making the stake participates,

“supply” includes—

- (a) sale,
- (b) lease, and
- (c) placing on premises with permission or in accordance with a contract or other arrangement,

“temporary use notice” has the meaning given by section 215,

“track” means a horse-race course, dog track or other premises on any part of which a race or other sporting event takes place or is intended to take place,

“travelling fair” has the meaning given by section 286,

“vehicle” includes—

- (a) a train,
- (b) an aircraft,
- (c) a seaplane, and
- (d) an amphibious vehicle (other than a hovercraft within the meaning of the Hovercraft Act 1968 (c. 59)),

“vessel” includes—

- (a) anything, other than a seaplane or an amphibious vehicle, designed or adapted for navigation or other use in, on or over water,
- (b) a hovercraft (within the meaning of the Hovercraft Act 1968), and,
- (c) anything, or any part of any place, situated in or on water,

“virtual” has the meaning given by subsection (3) below,

“winnings”, in relation to a bet, means anything won, whether in money or in money’s worth, and

“young person” has the meaning given by section 45.

(2) In this Act, except where the context otherwise requires—

- (a) a reference to accepting a bet includes a reference to negotiating a bet,
- (b) a reference to advertising is to be construed in accordance with section 327,
- (c) a reference to participating in a lottery is to be construed in accordance with section 14,
- (d) a reference to installing computer software includes a reference to downloading computer software,
- (e) a reference to paying winnings in relation to a bet includes a reference to providing a prize in money’s worth,
- (f) a reference to postal services does not include a reference to facsimile transmission,
- (g) a reference to premises includes a reference to part of premises,
- (h) a reference to promoting a lottery is to be construed in accordance with section 252,
- (i) a reference to providing facilities for gambling is to be construed in accordance with section 5,

- (j) a reference to publication includes a reference to display, and
  - (k) a reference to the sale, supply or purchase of a lottery ticket is to be construed in accordance with section 253.
- (3) For the purposes of this Act a reference to a virtual game, race or other event or process is a reference to—
- (a) images generated by computer so as to resemble all or part of a game, race or other event or process of a kind that is played by or involves actual people, animals or things,
  - (b) images generated by computer so as to represent an imaginary game, race or other event or process, or
  - (c) any game, race or other event or process the result of which is determined by computer.
- (4) A requirement under this Act to give a notice (or to notify) is a requirement to give notice in writing; and for that purpose—
- (a) a message sent by facsimile transmission or electronic mail shall be treated as a notice given in writing, and
  - (b) a notice sent to a licensee at the address specified for that purpose in the licence shall, unless the contrary is proved, be treated as reaching him within a period within which it could reasonably be expected to reach him in the ordinary course of events.
- (5) A reference in this Act to an act which is authorised by a licence or other document does not include a reference to an act which would be authorised by the licence or document but for failure to comply with a term or condition.

### **354 Crown application**

- (1) This Act binds the Crown.
- (2) But this Act shall have no effect in relation to anything done on, or in relation to any use of, premises occupied (temporarily or permanently) by Her Majesty's naval forces, military forces or air forces (within the meaning given by section 225(1) of the Army Act 1955 (c. 18)).
- (3) Section 40(3) of the Fire Precautions Act 1971 (c. 40) (conversion of reference to fire and rescue authority into reference to Her Majesty's Fire Inspectorate in relation to Crown premises) shall apply to a provision of this Act as it applies to provisions of that Act (but with the substitution for the reference to section 40(1) of a reference to subsection (1) above).

### **355 Regulations, orders and rules**

- (1) Regulations or rules under this Act, or an order of the Secretary of State under this Act—
  - (a) may make provision which applies generally or only for specified purposes or in specified cases or circumstances,
  - (b) may make different provision for different purposes, cases or circumstances, and
  - (c) may include incidental, consequential or transitional provision.

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- (2) A provision of this Act which permits regulations, rules or an order to make provision of a specified kind is without prejudice to the generality of subsection (1).
- (3) Regulations or rules under this Act, or an order of the Secretary of State under this Act, shall be made by statutory instrument.
- (4) Regulations under any of the following provisions shall not be made by the Secretary of State unless a draft has been laid before and approved by resolution of each House of Parliament—
  - (a) section 4,
  - (b) section 6,
  - (c) section 7,
  - (d) section 14,
  - (e) section 78,
  - (f) section 123,
  - (g) section 167,
  - (h) section 168,
  - (i) section 236, and
  - (j) section 328.
- (5) Regulations or rules made by a Minister of the Crown under any other provision of this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) An order of the Secretary of State under this Act shall not be made unless a draft has been laid before and approved by resolution of each House of Parliament (subject to subsections (7) and (8)).
- (7) Subsection (6) shall not apply to an order under section 349(6), to an order under section 351 other than an order adding an entry to the list in Part 2 or 3 of Schedule 6 or to an order under Part 2 of Schedule 7 or Part 2 of Schedule 18, which shall instead be subject to annulment in pursuance of a resolution of either House of Parliament.
- (8) Subsection (6) shall not apply to an order under section 358; but—
  - (a) an order under section 358(1) which includes provision made by virtue of section 358(4) or by virtue of Part 1 of Schedule 18 shall be subject to annulment in pursuance of a resolution of either House of Parliament, and
  - (b) an order under section 358(5) or (6) shall not be made unless a draft has been laid before and approved by resolution of each House of Parliament.
- (9) Regulations under a provision specified in subsection (4) or under section 285 shall not be made by the Scottish Ministers unless a draft has been laid before and approved by resolution of the Scottish Parliament.
- (10) Regulations made by the Scottish Ministers under any other provision of this Act shall be subject to annulment in pursuance of a resolution of the Scottish Parliament.

### **356 Amendments and repeals**

- (1) Schedule 16 (minor and consequential amendments) shall have effect.
- (2) An amendment in that Schedule shall have the same extent as the enactment amended (or as the relevant portion of the enactment amended).

- (3) The following shall cease to have effect—
- (a) the Gaming Act 1710 (c. 19),
  - (b) the Gaming Act 1738 (c. 28),
  - (c) the Gaming Act 1835 (c. 41),
  - (d) the Gaming Act 1845 (c. 109),
  - (e) the Gaming Act 1892 (c. 9),
  - (f) the Betting, Gaming and Lotteries Act 1963 (c. 2),
  - (g) the Gaming Act 1968 (c. 65),
  - (h) the Lotteries Act 1975 (c. 58), and
  - (i) the Lotteries and Amusements Act 1976 (c. 32).
- (4) The enactments listed in Schedule 17 are hereby repealed to the extent specified.
- (5) A repeal in that Schedule shall have the same extent as the provision repealed (subject to the Note to that Schedule).

### **357 Money**

- (1) Expenditure of a Minister of the Crown in connection with this Act shall be paid out of money provided by Parliament.
- (2) A sum received by a Minister of the Crown in connection with this Act shall be paid into the Consolidated Fund.

### **358 Commencement**

- (1) The preceding provisions of this Act shall come into force in accordance with provision made by the Secretary of State by order.
- (2) An order under subsection (1) may (without prejudice to the generality of section 355(1))—
- (a) bring only specified provisions into force;
  - (b) bring different provisions into force at different times;
  - (c) bring a provision into force for a specified purpose only;
  - (d) bring a provision into force at different times for different purposes;
  - (e) in particular, bring Part 2 into force only for specified preliminary purposes relating to the establishment of the Commission (which may include the assumption of functions of the Gaming Board for Great Britain pending the commencement of repeals made by this Act);
  - (f) in particular, bring a provision of this Act into force for the purpose of enabling an advance application for a licence or permit to be made, considered and determined;
  - (g) in particular, bring an offence or other provision of this Act into force only in relation to gambling of a specified class or in specified circumstances;
  - (h) include transitional provision modifying the application of a provision of this Act pending the commencement of, or pending the doing of anything under, a provision of another enactment.
- (3) Schedule 18 (transitional) shall have effect.

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- (4) Without prejudice to the generality of section 355(1)(c) or of Schedule 18, an order under this section may—
  - (a) make savings (with or without modification) or transitional provision in connection with Part 1 or 2 of the Horserace Betting and Olympic Lottery Act 2004 (c. 25) (sale of the Horserace Totalisator Board (“the Tote”) and abolition of the horserace betting levy system);
  - (b) modify a provision of this Act in its application in relation to a matter addressed by Part 1 or 2 of that Act or so as to reflect a provision of Part 1 or 2 of that Act;
  - (c) modify a provision of Part 1 or 2 of that Act (including a provision which amends another enactment) so as to reflect a provision of this Act.
- (5) If the Secretary of State brings into force a repeal effected by this Act at a time when the appointed day for the purposes of Part 1 of that Act has not been appointed or has not arrived, he may by order—
  - (a) save, with or without modification, a provision repealed by this Act in so far as it relates to the Tote;
  - (b) make provision in connection with the Tote of a kind similar to provision made by a provision repealed by this Act;
  - (c) modify a provision of this Act for a purpose connected with the Tote;
  - (d) modify a provision of Part 1 of that Act (including a provision which amends another enactment) so as to reflect a provision of this Act.
- (6) If the Secretary of State wholly or partly brings into force the repeal by this Act of the Betting, Gaming and Lotteries Act 1963 (c. 2) at a time when the provisions listed in section 15(1)(a) to (c) of the Horserace Betting and Olympic Lottery Act 2004 (horserace betting levy system) have not been entirely repealed by order under that section, he may by order—
  - (a) save any of those provisions, with or without modification;
  - (b) make provision of a kind similar to any of those provisions;
  - (c) modify a provision of this Act for a purpose connected with a matter addressed by any of those provisions or by Part 2 of that Act;
  - (d) modify a provision of Part 2 of that Act (including a provision which amends another enactment) so as to reflect a provision of this Act.

### **359 Vessels: territorial limitations**

- (1) A person does not commit an offence under Part 3, 4, 10 or 11 of this Act if—
  - (a) the conduct which would otherwise constitute the offence takes place on board a vessel (within the meaning of section 353(1)), and
  - (b) the vessel is on a journey which has taken it or is intended to take it into international waters.
- (2) Subject to subsection (1) a provision of this Act which applies in relation to a thing done in Great Britain applies to that thing if done on or in the territorial sea adjacent to Great Britain.
- (3) In this section—
 

“international waters” means waters outside the territorial sea adjacent to Great Britain, and



“the territorial sea” has the meaning given by section 1 of the Territorial Sea Act 1987 (c. 49).

**360 Aircraft: territorial limitations**

- (1) A person does not commit an offence under Part 3, 4, 10 or 11 of this Act if the conduct which would otherwise constitute the offence takes place—
  - (a) on board an aircraft, and
  - (b) at a time when the aircraft is in international airspace.
- (2) In this section “international airspace” means airspace other than airspace above Great Britain or above the territorial sea adjacent to Great Britain (within the meaning given by section 1 of the Territorial Sea Act 1987).

**361 Extent**

- (1) The following provisions of this Act extend to England and Wales, Scotland and Northern Ireland—
  - (a) section 43,
  - (b) section 331, and
  - (c) section 340 (and the related entry in Schedule 17).
- (2) The other provisions of this Act shall extend only to—
  - (a) England and Wales, and
  - (b) Scotland.
- (3) This section is subject to section 356.

**362 Short title**

This Act may be cited as the Gambling Act 2005.