



# Gambling Act 2005

## 2005 CHAPTER 19

### PART 2

#### THE GAMBLING COMMISSION

#### **20 Establishment of the Commission**

- (1) There shall be a body corporate to be known as the Gambling Commission.
- (2) Schedule 4 (which makes provision about the constitution and proceedings of the Commission) shall have effect.

#### **21 Gaming Board: transfer to Commission**

- (1) Section 10 of and Schedule 1 to the Gaming Act 1968 (c. 65) (Gaming Board for Great Britain) shall cease to have effect.
- (2) The functions, rights and liabilities of the Gaming Board for Great Britain shall on commencement become functions, rights and liabilities of the Gambling Commission.
- (3) The persons who immediately before commencement are the members of the Gaming Board for Great Britain shall be treated as if on commencement they were appointed as commissioners of the Gambling Commission under paragraph 1 of Schedule 4 to this Act.
- (4) The person who immediately before commencement is the chairman of the Gaming Board for Great Britain shall be treated as if on commencement he were appointed as the chairman of the Gambling Commission under paragraph 1 of Schedule 4 to this Act.
- (5) In this section “commencement” means the coming into force of this section.
- (6) Schedule 5 (which makes supplementary provision in relation to the transfer of functions and property from the Gaming Board to the Gambling Commission) shall have effect.

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*Status: This is the original version (as it was originally enacted).*

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## **22 Duty to promote the licensing objectives**

In exercising its functions under this Act the Commission shall aim—

- (a) to pursue, and wherever appropriate to have regard to, the licensing objectives, and
- (b) to permit gambling, in so far as the Commission thinks it reasonably consistent with pursuit of the licensing objectives.

## **23 Statement of principles for licensing and regulation**

- (1) The Commission shall prepare a statement setting out the principles to be applied by it in exercising its functions under this Act.
- (2) The statement under this section shall, in particular, explain how the principles to be applied are expected to assist the Commission in its pursuit of the licensing objectives.
- (3) The Commission shall—
  - (a) review the statement from time to time, and
  - (b) revise the statement when the Commission thinks it appropriate.
- (4) The Commission shall as soon as is reasonably practicable publish—
  - (a) the statement, and
  - (b) any revision.
- (5) Before issuing or revising a statement under this section the Commission shall consult—
  - (a) the Secretary of State,
  - (b) Her Majesty's Commissioners of Customs and Excise,
  - (c) one or more persons who appear to the Commission to represent local authorities (including, in Scotland, licensing boards),
  - (d) one or more persons who appear to the Commission to represent chief constables of police forces,
  - (e) one or more persons who appear to the Commission to represent the interests of persons carrying on gambling businesses,
  - (f) one or more persons who appear to the Commission to have knowledge about social problems relating to gambling, and
  - (g) to such extent and in such manner as the Commission thinks appropriate, members of the public.

## **24 Codes of practice**

- (1) The Commission shall issue one or more codes of practice about the manner in which facilities for gambling are provided (whether by the holder of a licence under this Act or by another person).
- (2) In particular, a code shall describe arrangements that should be made by a person providing facilities for gambling for the purposes of—
  - (a) ensuring that gambling is conducted in a fair and open way,
  - (b) protecting children and other vulnerable persons from being harmed or exploited by gambling, and
  - (c) making assistance available to persons who are or may be affected by problems related to gambling.

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- (3) A code may include provision about how facilities for gambling are advertised or described.
- (4) A code may be revised or revoked by the Commission.
- (5) A code, and any revision, must state when it comes into force.
- (6) The Commission shall publish a code and any revision in a manner which the Commission thinks likely to bring it to the attention of those whose activities it concerns.
- (7) The Commission may make different provision under this section for different cases or circumstances (whether or not by way of separate codes of practice).
- (8) A failure to comply with a provision of a code shall not of itself make a person liable to criminal or civil proceedings; but this subsection is subject to any provision of or by virtue of this Act making an exception to an offence dependent on compliance with a code.
- (9) But a code—
  - (a) shall be admissible in evidence in criminal or civil proceedings,
  - (b) shall be taken into account by a court or tribunal in any case in which it appears to the court or tribunal to be relevant, and
  - (c) shall be taken into account by the Commission in the exercise of a function under this Act.
- (10) Before issuing or revising a code under this section the Commission shall consult—
  - (a) the Secretary of State,
  - (b) Her Majesty's Commissioners of Customs and Excise,
  - (c) one or more persons who appear to the Commission to represent the interests of persons who—
    - (i) carry on gambling businesses, and
    - (ii) are likely to be affected by the code or revision,
  - (d) one or more persons who appear to the Commission to have knowledge about social problems relating to gambling, and
  - (e) in the case of a code including provision by virtue of subsection (3), one or more persons who appear to the Commission to have a relevant responsibility for regulating the advertising industry.
- (11) Before issuing or revising a code under this section the Commission shall also consult, if and to the extent that the Commission thinks appropriate having regard to the nature of the code or revision—
  - (a) one or more persons who appear to the Commission to represent local authorities (including, in Scotland, licensing boards),
  - (b) one or more persons who appear to the Commission to represent chief constables of police forces,
  - (c) one or more persons who appear to the Commission to represent the interests of persons carrying on gambling businesses (apart from those consulted under subsection (10)(c)), and
  - (d) in such manner as the Commission thinks appropriate, members of the public.

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## **25 Guidance to local authorities**

- (1) The Commission shall from time to time issue guidance as to—
  - (a) the manner in which local authorities are to exercise their functions under this Act, and
  - (b) in particular, the principles to be applied by local authorities in exercising functions under this Act.
- (2) A local authority shall have regard to guidance issued under subsection (1).
- (3) The Commission shall publish guidance issued under subsection (1).
- (4) Before issuing guidance under subsection (1) the Commission shall consult—
  - (a) the Secretary of State,
  - (b) Her Majesty’s Commissioners of Customs and Excise,
  - (c) the Scottish Ministers,
  - (d) one or more persons who appear to the Commission to represent local authorities,
  - (e) one or more persons who appear to the Commission to represent the interests of persons carrying on gambling businesses, and
  - (f) one or more persons who appear to the Commission to have knowledge about social problems relating to gambling.
- (5) Before issuing guidance under subsection (1) the Commission shall also consult, if and to the extent that the Commission thinks appropriate having regard to the nature of the guidance—
  - (a) one or more persons who appear to the Commission to represent chief constables of police forces, and
  - (b) in such manner as the Commission thinks appropriate, members of the public.
- (6) In this section “local authority” means—
  - (a) in relation to England—
    - (i) a district council,
    - (ii) a county council for a county in which there are no district councils,
    - (iii) a London borough council,
    - (iv) the Common Council of the City of London,
    - (v) the Sub-Treasurer of the Inner Temple and the Under-Treasurer of the Middle Temple, and
    - (vi) the Council of the Isles of Scilly,
  - (b) in relation to Wales—
    - (i) a county council, and
    - (ii) a county borough council, and
  - (c) in relation to Scotland, a licensing board constituted under section 1 of the Licensing (Scotland) Act 1976 (c. 66).

## **26 Duty to advise Secretary of State**

- (1) The Commission shall give advice to the Secretary of State about—
  - (a) the incidence of gambling,
  - (b) the manner in which gambling is carried on,
  - (c) the effects of gambling, and

(d) the regulation of gambling.

(2) Advice under this section shall be given—

- (a) in response to a request from the Secretary of State, and
- (b) on such other occasions as the Commission thinks appropriate.

(3) The Commission shall send a copy of any advice under this section to the Scottish Ministers.

## **27 Compliance**

The Commission may undertake activities for the purpose of assessing—

- (a) compliance with provision made by or by virtue of this Act;
- (b) whether an offence is being committed under or by virtue of this Act.

## **28 Investigation and prosecution of offences**

(1) The Commission—

- (a) may investigate whether an offence has been committed under this Act, and
- (b) may institute criminal proceedings in respect of an offence under this Act.

(2) The power in subsection (1)(a) may be exercised whether in response to information received by the Commission or otherwise.

(3) Subsection (1)(b) shall not apply in relation to the institution of proceedings in Scotland.

## **29 Licensing authority information**

(1) The Commission may require a licensing authority to provide information that—

- (a) forms part of a register maintained by the authority under this Act, or
- (b) is in the possession of the authority in connection with a provision of this Act.

(2) A requirement under subsection (1) may include a requirement for information to be—

- (a) compiled or collated in a specified manner;
- (b) provided in a specified form.

(3) A licensing authority shall comply with a requirement under this section.

## **30 Other exchange of information**

(1) The Commission may provide information received by it in the exercise of its functions to any of the persons or bodies listed in Schedule 6—

- (a) for use in the exercise of the person's or body's functions, or
- (b) for the purpose of a function of the Commission.

(2) Any of the persons or bodies listed in Part 1 or 2 of Schedule 6 may provide to the Commission, for use in the exercise of its functions, information received by the person or body in the exercise of his or its functions.

(3) The Commission may provide information received by it in the exercise of its functions to the Comptroller and Auditor General for use in the exercise of his functions under Part 2 of the National Audit Act 1983 (c. 44).

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- (4) The Commission may provide information received by it in the exercise of its functions to a person if the provision is for the purpose of—
  - (a) a criminal investigation (whether in the United Kingdom or elsewhere), or
  - (b) criminal proceedings (whether in the United Kingdom or elsewhere).
- (5) Note 2 to Schedule 6 shall not apply to the provision of information under subsection (3).
- (6) Provision of information in reliance on this section may be subject to conditions (whether as to use, storage, disposal or otherwise).
- (7) The Commission may charge a fee for the provision of information under subsection (1)(a).
- (8) This section is subject to section 352.

### **31 Consultation with National Lottery Commission**

- (1) If in the course of the exercise of its functions the Gambling Commission becomes aware of a matter about which the National Lottery Commission is likely to have an opinion, the Gambling Commission shall consult the National Lottery Commission.
- (2) The Gambling Commission shall comply with any direction of the Secretary of State (which may be general or specific) to consult the National Lottery Commission.

### **32 Consultation with Commissioners of Customs and Excise**

- (1) If in the course of the exercise of its functions the Gambling Commission becomes aware of a matter about which the Commissioners of Customs and Excise are likely to have an opinion, the Gambling Commission shall consult the Commissioners of Customs and Excise.
- (2) The Gambling Commission shall comply with any direction of the Secretary of State (which may be general or specific) to consult the Commissioners of Customs and Excise.