



# Gambling Act 2005

## 2005 CHAPTER 19

### PART 5

#### OPERATING LICENCES

##### *Rules for particular kinds of licence*

#### **89 Remote operating licence**

- (1) This section applies to a remote operating licence.
- (2) A remote operating licence shall, by virtue of this subsection, be subject to the condition that remote gambling equipment used by the licensee in connection with the licensed activities must be situated in Great Britain.
- (3) Where the Commission issues a remote operating licence it may exclude, generally or to a specified extent or for specified purposes, the condition that would otherwise be attached by virtue of subsection (2), if the Commission is satisfied that the exclusion is reasonably consistent with pursuit of the licensing objectives.
- (4) The Commission may establish, or provide for the establishment of, standards in respect of—
  - (a) a system used for the generation of results in a virtual game, virtual race or other virtual event or process used in the course of remote gambling;
  - (b) any other aspect of the process of remote gambling.
- (5) In particular, the Commission may—
  - (a) provide for the enforcement of standards by the attachment of conditions under section 75 or 77;
  - (b) make arrangements with any person for the establishment of standards;
  - (c) make arrangements with any person for the administration of tests of compliance with standards;
  - (d) for the purpose of considering whether a condition under section section 75 or 77 has been complied with, require the licensee under a remote licence—

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- (i) to submit to a test in accordance with arrangements made under paragraph (c) above, and
- (ii) to produce specified evidence of the result of the test;
- (e) for the purpose of considering whether to grant an application under this Part, require a licensee under a remote licence or an applicant for a remote licence—
  - (i) to submit to a test in accordance with arrangements made under paragraph (c) above, and
  - (ii) to produce specified evidence of the result of the test.
- (6) Standards established under subsection (5) may, in particular, be expressed—
  - (a) by reference to the opinion of a specified person or class of persons;
  - (b) by reference to a specified process or piece of equipment.
- (7) This section is without prejudice to the generality of sections 75, 77 and 78.

## **90 Casino operating licence**

- (1) A casino operating licence may be subject to a condition (whether imposed by virtue of section 75, 77 or 78) restricting the class of casino game that may be made available.
- (2) A casino operating licence may be subject to a condition imposed by virtue of section 75 or 77 specifying rules for the playing of—
  - (a) a casino game;
  - (b) another game of chance.

## **91 Bingo operating licence**

- (1) Regulations under section 78 may provide for the attachment to a bingo operating licence of a condition—
  - (a) limiting amounts that may be staked;
  - (b) limiting the amount that may be charged by way of participation fee;
  - (c) limiting the amount or value of a prize or class of prize;
  - (d) requiring that at least a specified proportion of stakes be paid out by way of prizes;
  - (e) imposing requirements that are specific to games of bingo played on more than one set of premises (whether facilities for the game are provided in accordance with one bingo operating licence or more than one).
- (2) But subject to subsection (1) a bingo operating licence may not be subject to a condition—
  - (a) limiting the amount that may be accepted or charged by way of stakes,
  - (b) limiting the amount that may be charged by way of participation fee,
  - (c) restricting the nature, amount or value of prizes,
  - (d) controlling the proportion of stakes paid out by way of prizes,
  - (e) preventing the provision of prizes funded other than out of stakes,
  - (f) preventing or limiting an arrangement whereby the fact that a prize is not won or claimed in one game of bingo increases the value of the prizes available in another game of bingo,
  - (g) requiring a game of bingo to be played entirely on one set of premises, or

- (h) imposing requirements that are specific to games of bingo played on more than one set of premises (whether facilities for the game are provided in accordance with one bingo operating licence or more than one).
- (3) Regulations by virtue of subsection (1)(b) may, in particular, make different provision for different kinds of fee.
- (4) Provision made by virtue of subsection (1)(c) may define a class of prize—
  - (a) by reference to a game or a number of games,
  - (b) by reference to a period of time, or
  - (c) in any other way.

## **92 General betting operating licence**

- (1) A general betting operating licence shall, by virtue of this section, be subject to the condition that bets may be accepted on behalf of the licensee only by—
  - (a) the licensee,
  - (b) a person employed by the licensee under a written contract of employment, or
  - (c) the holder of another general betting operating licence.
- (2) A general betting operating licence shall, by virtue of this subsection, contain an implied term permitting the use of postal services for the making of bets.
- (3) The effect of the term implied by subsection (2) may not be disapplied or restricted by a condition attached under section 75, 77 or 78.

## **93 Pool betting operating licence**

- (1) A pool betting operating licence shall, by virtue of this section, be subject to the condition that bets may be accepted on behalf of the licensee only—
  - (a) by the licensee,
  - (b) by a person employed by the licensee under a written contract of employment,
  - (c) by the holder of another pool betting operating licence, or
  - (d) in accordance with subsection (2) or (3).
- (2) A bet is accepted by a person (“the agent”) on behalf of a licensee in accordance with this subsection if—
  - (a) the agent is authorised by the licensee in writing to accept bets on behalf of the licensee,
  - (b) the agent is an adult,
  - (c) at the time of accepting the bet the agent is on a track,
  - (d) the bet is accepted in reliance on an occasional use notice, and
  - (e) the bet is in connection with a horse-race or a dog race.
- (3) The holder of a pool betting operating licence that authorises (whether expressly or impliedly) the provision of facilities for football pools may in writing authorise an adult or young person—
  - (a) to make documents or other facilities available in connection with the licensed activities;
  - (b) to receive entries on behalf of the licensee;
  - (c) to receive payments on behalf of the licensee;

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- (d) to make payments of winnings on behalf of the licensee.
- (4) An authorisation under subsection (3)—
  - (a) shall be treated for the purposes of section 33 as if it were a pool betting operating licence, but
  - (b) shall have no effect in relation to any activity, entry or payment that relates partly to a football pool and partly to another form of gambling.
- (5) An authorisation under subsection (3) may be issued on terms and conditions which may, in particular, include—
  - (a) provision for payment by the person issuing the authorisation;
  - (b) provision for commission.
- (6) A condition of a pool betting operating licence (whether attached by virtue of section 75, 77 or 78) may make provision regulating or restricting the activities of persons authorised under subsection (3).
- (7) A pool betting operating licence shall, by virtue of this subsection, contain an implied term permitting the use of postal services for the making of bets.
- (8) The effect of the term implied by subsection (7) may not be disapplied or restricted by a condition attached under section 75, 77 or 78.
- (9) The Secretary of State may by order—
  - (a) amend or repeal subsection (2)(e);
  - (b) amend subsection (3) so as to permit authorisation in relation to betting of a specified kind that relates to a sport but is not a football pool.

#### **94 Horse-race pool betting operating licence**

- (1) This section applies to a pool betting operating licence which provides for this section to apply.
- (2) The holder of a licence to which this section applies may in writing authorise a person to provide facilities for horse-race pool betting.
- (3) An authorisation under subsection (2) shall be treated for the purposes of section 33 as if it were a pool betting operating licence authorising the provision of facilities for horse-race pool betting.
- (4) An authorisation under subsection (2) may be issued on terms and conditions which may, in particular, include—
  - (a) provision for payment to or by the person issuing the authorisation;
  - (b) provision for agency or commission.
- (5) A condition of a pool betting operating licence to which this section applies (whether attached by virtue of section 75, 77 or 78) may make provision regulating or restricting the activities of persons authorised under subsection (2).
- (6) A pool betting operating licence to which this section applies shall, by virtue of this subsection, contain an implied term permitting the use of postal services for the making of bets.
- (7) The effect of the term implied by subsection (6) may not be disapplied or restricted by a condition attached under section 75, 77 or 78.

(8) The Secretary of State may by order repeal this section.

## **95 Betting on the National Lottery**

- (1) This section applies to—
  - (a) a general betting operating licence,
  - (b) a pool betting operating licence, and
  - (c) a betting intermediary operating licence.
- (2) A licence to which this section applies shall, by virtue of this subsection, be subject to the condition that nothing may be done in reliance on the licence in relation to a bet on the outcome of a lottery which forms part of the National Lottery.

## **96 Gaming machine technical operating licence: standards**

- (1) The Commission may establish, or provide for the establishment of, standards in respect of the manufacture, supply, installation, adaptation, maintenance or repair of gaming machines or parts of gaming machines.
- (2) Standards under subsection (1)—
  - (a) may operate by reference to regulations under Part 10, and
  - (b) may not make provision which is inconsistent with a provision of regulations under Part 10.
- (3) Standards under subsection (1) may, in particular, make provision (which may include provision designed to discourage repetitive play or to protect children or other vulnerable persons from harm) about—
  - (a) the nature of a game that a machine is designed to be used to play;
  - (b) the way in which the results of a game are to be determined or presented;
  - (c) the nature of images or information displayed by or on a machine.
- (4) In particular, the Commission may—
  - (a) provide for the enforcement of standards by the attachment of conditions under section 75 or 77;
  - (b) make arrangements with any person for the establishment of standards;
  - (c) make arrangements with any person for the administration of tests of compliance with standards;
  - (d) for the purpose of considering whether a condition under section 75 or 77 has been complied with, require the holder of a gaming machine technical operating licence—
    - (i) to submit to a test in accordance with arrangements made under paragraph (c) above, and
    - (ii) to produce specified evidence of the result of the test;
  - (e) for the purpose of considering whether to grant an application under this Part, require the holder of or an applicant for a gaming machine technical operating licence—
    - (i) to submit to a test in accordance with arrangements made under paragraph (c) above, and
    - (ii) to produce specified evidence of the result of the test.
- (5) Standards established under subsection (1) may, in particular, be expressed—

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- (a) by reference to the opinion of a specified person or class of persons;
  - (b) by reference to a specified process or class of machine.
- (6) This section is without prejudice to the generality of sections 75, 77 and 78.

### **97 Gambling software operating licence: standards**

- (1) The Commission may establish, or provide for the establishment of, standards in respect of the manufacture, supply, installation or adaptation of gambling software.
- (2) In particular, the Commission may—
- (a) provide for the enforcement of standards by the attachment of conditions under section 75 or 77;
  - (b) make arrangements with any person for the establishment of standards;
  - (c) make arrangements with any person for the administration of tests of compliance with standards;
  - (d) for the purpose of considering whether a condition under section 75 or 77 has been complied with, require the holder of a gambling software operating licence—
    - (i) to submit to a test in accordance with arrangements made under paragraph (c) above, and
    - (ii) to produce specified evidence of the result of the test;
  - (e) for the purpose of considering whether to grant an application under this Part, require the holder of or an applicant for a gambling software operating licence—
    - (i) to submit to a test in accordance with arrangements made under paragraph (c) above, and
    - (ii) to produce specified evidence of the result of the test.
- (3) Standards established under subsection (1) may, in particular, be expressed—
- (a) by reference to the opinion of a specified person or class of persons;
  - (b) by reference to a specified process or description of software.
- (4) This section is without prejudice to the generality of sections 75, 77 and 78.

### **98 Lottery operating licences**

- (1) A lottery operating licence may be issued only to—
- (a) a non-commercial society,
  - (b) a local authority, or
  - (c) a person proposing to act as external lottery manager on behalf of a non-commercial society or a local authority.
- (2) A lottery operating licence may authorise—
- (a) promotion generally or only specified promoting activities;
  - (b) the promotion of lotteries generally or only the promotion of lotteries of a specified kind or in specified circumstances;
  - (c) action as an external lottery manager (in which case it is known as a “lottery manager’s operating licence”).
- (3) In issuing a lottery operating licence to a society or authority the Commission—

- (a) may attach a condition under section 75 or 77 requiring that the society or authority ensure that all the arrangements for the lottery are made by the holder of a lottery manager’s operating licence, and
  - (b) may, if they attach a condition under paragraph (a), issue the lottery licence to the society or authority without consideration of the matters specified in section 70(1)(b).
- (4) A lottery operating licence shall, by virtue of this subsection, permit the delivery of lottery tickets by post.
- (5) The effect of the term implied by subsection (4) may not be disapplied or restricted by a condition attached under section 75, 77 or 78.
- (6) In issuing a lottery operating licence the Commission may attach a condition under section 75 or 77 preventing, restricting or controlling the use of a rollover.
- (7) In this section “local authority” means—
- (a) in relation to England—
    - (i) a district council,
    - (ii) a county council,
    - (iii) a parish council,
    - (iv) a London borough council,
    - (v) the Common Council of the City of London, and
    - (vi) the Council of the Isles of Scilly,
  - (b) in relation to Wales—
    - (i) a county council,
    - (ii) a county borough council, and
    - (iii) a community council, and
  - (c) in relation to Scotland, a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c. 39).

## **99 Mandatory conditions of lottery operating licence**

- (1) In issuing a lottery operating licence to a non-commercial society or to a local authority the Commission shall attach conditions under section 75 or 77 for the purpose of achieving the requirements specified in this section.
- (2) The first requirement is that at least 20% of the proceeds of any lottery promoted in reliance on the licence are applied—
- (a) in the case of a licence issued to a non-commercial society, to a purpose for which the promoting society is conducted, and
  - (b) in the case of a licence issued to a local authority, for a purpose for which the authority has power to incur expenditure.
- (3) The second requirement is that—
- (a) the proceeds of any lottery promoted in reliance on the licence may not exceed £2,000,000, and
  - (b) the aggregate of the proceeds of lotteries promoted wholly or partly in a calendar year in reliance on the licence may not exceed £10,000,000.

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- (4) The third requirement is that it must not be possible for the purchaser of a ticket in a lottery promoted in reliance on the licence to win by virtue of that ticket (whether in money, money's worth, or partly the one and partly the other) more than—
- (a) £25,000, or
  - (b) if more, 10% of the proceeds of the lottery;
- and any rollover must comply with this subsection.
- (5) The fourth requirement is that where a person purchases a lottery ticket in a lottery promoted by a non-commercial society in reliance on the licence he receives a document which—
- (a) identifies the promoting society,
  - (b) states the name and address of a member of the society who is designated, by persons acting on behalf of the society, as having responsibility within the society for the promotion of the lottery, and
  - (c) either—
    - (i) states the date of the draw (or each draw) in the lottery, or
    - (ii) enables the date of the draw (or each draw) in the lottery to be determined.
- (6) The fifth requirement is that the price payable for purchasing each ticket in a lottery promoted in reliance on the licence—
- (a) must be the same,
  - (b) must be shown on the ticket or in a document received by the purchaser, and
  - (c) must be paid to the promoter of the lottery before any person is given a ticket or any right in respect of membership of the class among whom prizes are to be allocated.
- (7) For the purpose of subsections (5) and (6) a reference to a person receiving a document includes, in particular, a reference to a message being sent or displayed to him electronically in a manner which enables him, without incurring significant expense or delay, to—
- (a) retain the message electronically, or
  - (b) print it.
- (8) The sixth requirement is that membership of the class among whom prizes in any lottery promoted in reliance on the licence are allocated may not be dependent on making any payment (apart from payment of the price of a ticket).
- (9) Where—
- (a) conditions are attached to a lottery operating licence in accordance with this section, and
  - (b) the lottery operating licence is also subject to a condition under section 98(3)
    - (a) requiring arrangements for the lottery to be made by the holder of a lottery manager's operating licence,
- the conditions specified in paragraph (a) above shall, by virtue of this subsection, attach to the lottery manager's operating licence in so far as it is relied upon in pursuance of the condition specified in paragraph (b) above.
- (10) Nothing in this section prevents the Commission from attaching a condition to a lottery operating licence of a kind similar to but more onerous than a requirement of this section.



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(11) The Secretary of State may by order vary a monetary amount or a percentage in this section.