

*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 6: Exchange of information: persons and bodies

Part 5: Operating Licences

202. Operating licences are one of the principal forms of authorisation under the Act for the lawful provision of facilities for gambling. A person holding an operating licence, and providing facilities within the terms and conditions of that licence, will not commit the offence of unlawful provision of facilities for gambling under Part 3.
203. The sections in this Part describe the licensing regime to be administered by the Commission for granting operating licences. Matters covered include the principles to be applied by the Commission in considering applications for operating licences, powers for conditions to be attached to licences, and the review procedures once licences have been granted.
204. There are different kinds of operating licences for the various forms of gambling facilities e.g. to operate a casino, to provide facilities for betting, or to act as a betting intermediary. An operating licence for each kind of activity can authorise the provision of facilities on premises generally (“non-remote provision”) or for the provision of those facilities by means of remote communication (“remote provision”). However, it is not possible to combine a licence for both remote and non-remote provision (but one person can be granted both a remote licence for betting and a non-remote licence for betting).
205. An operating licence for non-remote provision gives a general authorisation for the operator to provide gambling facilities on premises. However, before being able to use any particular premises, the holder of an operating licence will also need an authorisation under the Act to use such premises for gambling. The principal form of such permission is a premises licence granted under Part 8 of the Act, although there are other forms of permission e.g. an occasional use notice (section 39) or a temporary use notice (Part 9).
206. In addition to authorising the provision of facilities for gambling, operating licences can be obtained to authorise:
- the manufacture, supply, installation, adaptation, maintenance and repair of gaming machines; and
 - the manufacture, supply, installation and adaptation of gambling computer software.
207. Part 1 of the Act defines “betting”, “gaming” and “lottery”, and a number of related concepts. Part 18 of the Act contains further interpretation provisions relevant to Part 5.

Section 65: Nature of licence

208. There are ten different kinds of operating licence:
- a) a casino operating licence;
 - b) a bingo operating licence;
 - c) a general betting operating licence;
 - d) a pool betting operating licence;
 - e) a betting intermediary operating licence;
 - f) a gaming machine general operating licence for an adult gaming centre;
 - g) a gaming machine general operating licence for a family entertainment centre;
 - h) a gaming machine technical licence;
 - i) a gambling software operating licence; and
 - j) a lottery operating licence.
209. *Subsection (1)* empowers the Commission to issue these operating licences. *Subsection (4)* allows the Secretary of State, through secondary legislation, to amend this list so as to add, vary or delete a class of operating licence.

Section 66: Form of licence

210. A licence must specify the person to whom it is issued; how long it has effect; and any condition attached to the licence by the Commission (*subsection (1)*). The Secretary of State may set out in regulations further details of what information a licence must contain, and the form in which it is to be issued (*subsection (2)*).

Section 67: Remote gambling

211. Facilities for gambling can be provided remotely (i.e. by technology which means the player is not in the same place as the person offering the facilities), or non-remotely (i.e. face to face on premises). This section defines a “remote operating licence” as an operating licence which authorises someone to provide remote gambling, and requires all licences to state whether they are a remote operating licence or a non-remote operating licence. An operating licence cannot be both.
212. The effect of this section is that for each of the ten kinds of operating licence listed in section 65, there are two basic types: a remote operating licence which authorises, for example, the provision of particular facilities by means of the internet; and a non-remote licence, which authorises the same facilities to be provided from premises. It will not be possible for one operating licence to combine authorisations for providing both remote and non-remote facilities for gambling. One person can hold both types of licence, but he will need to be granted each separately.
213. Further provisions on the conditions which can be attached to a remote licence allow the Commission to limit the particular forms of remote communication by which gambling is offered under a remote licence. Therefore, a remote licence does not automatically confer an entitlement to use all forms of remote communication e.g. television, radio and the internet. Instead, conditions can limit provision to one, or any combination of the different forms of remote communication defined in Part 1.

Section 68: Combined licence

214. While there is a distinction between remote and non-remote operating licences, meaning that they cannot be combined in one licence, the Commission can issue operating

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

licences which cover more than one of the ten kinds of licence, provided they are all either remote, or non-remote.

215. The starting point, *in subsection (1)*, is that one operating licence can authorise a combination of the different kinds of activities that make up the ten kinds of operating licence. However, this is subject to certain rules and limitations.
216. Under *subsection (3)* a casino operating licence also authorises the provision of facilities for betting on the outcome of a virtual game, race, competition or other event or process (to the extent that this is not restricted or excluded by a condition imposed by the Commission), and the provision of equal chance gaming, other than bingo. This means that a casino operator does not need to obtain a betting operating licence if he wishes to offer this form of betting, and can automatically offer equal chance gaming, other than bingo. If he does wish to offer bingo, he will need to obtain a bingo operating licence as well. Under rules in Part 8 of the Act, a small non-remote casino cannot offer bingo from its premises.
217. Under *subsection (4)*, a betting operating licence authorises the provision of facilities for betting on the outcome of a virtual game, race, competition or other event or process (other than a game of chance), but only to the extent that this is not restricted or excluded by a condition imposed by the Commission. This gives the Commission power to regulate virtual betting if the need arises.
218. Neither subsections (3) or (4) are authorisations for virtual gambling by machine. Machine gambling is regulated by Parts 8 and 10 of the Act. These subsections concern over-the-counter, person to person, betting on virtual events, or remote gambling where no gaming machine is involved.
219. There are two types of operating licence specifically designed for authorising the provision of gaming machines: the gaming machine general operating licence for adult gaming centres and the gaming machine general operating licence for family entertainment centres. These specifically authorise the licence holder to make gaming machines available for use. However, under *subsection (5)* certain other types of operating licence also bring with them a general entitlement to make gaming machines available for use:
 - a non-remote casino operating licence;
 - a non-remote bingo operating licence;
 - a non-remote general betting operating licence; and
 - a non-remote pool betting operating licence.
220. Apart from these four types of operating licence (and the two general gaming machine operating licences) no other operating licences may authorise the making available of gaming machines. Therefore, no remote operating licence confers a right to make gaming machines available for use.
221. Moreover, the fact that certain operating licences provide this authorisation, does not entitle the holder of the licence to use any number or category of gaming machines, on any particular premises. The purpose of subsection (5) is to provide a generic authority for the operator to make gaming machines available for use, in the same way as a casino operating licence gives authority to provide facilities to operate a casino (in the general sense). The provisions of Parts 8 (premises licences) and 10 (gaming machines) control the precise locations where gaming machines may be used, and an operator must comply with the requirements of these Parts to make a gaming machine available for use lawfully.

Section 69: Application

222. This section sets out who may apply for an operating licence and the type of information that must accompany an application. Applications are to be made to the Commission and such other people as the Secretary of State directs. The application, in particular, must contain details of the gambling activities that the operator wishes to provide (e.g. which of the ten types of licence he wishes to obtain, and whether remotely or non-remotely), and state whether the applicant has been convicted of a relevant offence (as defined in the interpretation section for this Part).
223. An application fee is payable, which may vary for different types of licence (i.e. different kinds of gambling activity) or different circumstances (*subsections (2)(g) and (5)*). Such fees will be prescribed by the Secretary of State in regulations. It is anticipated that fees will vary across sectors to reflect the Commission's differing costs of regulation.

Section 70: Consideration of applications: general principles

224. This section sets out the general principles which the Commission will apply in determining applications, and particular matters which they may take into account. The detail of how the Commission will consider applications, and, for example, what evidence it will seek, will be set out in the statement of licensing policy that the Commission is required to produce under Part 2 of the Act.
225. The purpose of this section is to outline the principles which will govern the Commission's decision-making in relation to the consideration of applications. The two main matters are: to have regard to the licensing objectives, and to have regard to the applicant's suitability, including his integrity, competence, and financial circumstances. The assessment may also cover the suitability of equipment to be used in connection with the proposed activities.
226. The Commission's assessment may cover not just the applicant, but also people who are connected to the applicant because they are likely to exercise a function in connection with, or have an interest in, the gambling activities.
227. *Subsection (3)* makes specific provision for those cases where the application is for a non-remote casino operating licence. In such cases, the Commission must have regard to the applicant's commitment to protecting vulnerable people from being harmed or exploited by gambling, and to making assistance available to people who may be affected by problem gambling. This requirement reflects the particular risks presented by casinos in relation to problem gambling.
228. There may be circumstances where the Commission will wish to assume that a class of applicant will automatically fulfil the requirement of integrity for the purpose of assessing suitability. In these circumstances the Commission's statement may make a determination to this effect. For example, the Commission could decide that local authorities, seeking a lottery operating licence, do not need to supply evidence of integrity as part of the application process.
229. The Commission can also deem particular equipment or gaming machines to be suitable, in accordance with standards or tests that it has established, or asked others to establish for it. This is designed to aid both the Commission and applicants in making the application process as efficient as possible.

Section 71: Consideration of application: criminal record

230. One of the licensing objectives is to keep gambling crime free. This section provides that the Commission may refuse an application for an operating licence if the applicant has a conviction for a relevant offence. This is without prejudice to the suitability of the applicant generally, but permits the Commission to reject an application by reason of

the conviction for the relevant offence, should it consider this appropriate. “Relevant offence” is defined in the interpretation section for this Part.

Section 72: Consideration of application: demand

231. Under the Betting, Gaming and Lotteries Act 1963 and the Gaming Act 1968, one of the considerations for the grant of a permit or licence was whether there was unmet demand for the specified gambling facilities in the particular area to which an application related. This section revokes this principle, as unmet demand is not a relevant criterion, under the Act, for determining whether or not to grant an operating licence. This section also abolishes the “permitted areas” for casinos which were established under the Gaming Act 1968. Similar provisions are contained in Part 8, in relation to the consideration of premises licences. The necessary repeals for these various matters are set out in Schedule 17.

Section 73: Procedure

232. This section sets out the powers of the Commission to require information from an applicant, and to have regard to information provided by other people when considering an application. In particular, the Commission may require the production of an enhanced criminal record certificate under the [Police Act 1997 \(c.50\)](#). This applies to the applicant or people relevant to the application.
233. The licensing policy statement produced by the Commission under Part 2 must specify the procedures to be operated by the Commission, including the Commission’s practice with regard to delegating functions, holding hearings, and requiring evidence. Schedule 4 also makes provisions with regard to the general proceedings of the Commission.

Section 74: Determination of application

234. This section provides the range of determinations the Commission can make having considered an application and the actions consequent upon a determination, including a requirement to give reasons where an application is rejected.

Sections 75 to 78: Licence Conditions

235. There are three types of licence condition that may be attached to operating licences under the Act: general conditions and individual conditions, both of which are attached by the Commission; and conditions imposed by the Secretary of State.
236. [Sections 75](#) and [76](#) concern general conditions, which are conditions the Commission may specify for an operating licence or a class of operating licence, and which have general application. So, for example, the Commission could specify a general condition that applied to all general betting operating licences, that the rules of the bet must be on display to customers (whether on premises, or over the internet). This condition would apply to everyone holding a general betting operating licence.
237. [Section 76](#) sets out the procedures which the Commission must follow in specifying general conditions. These include holding general consultations (with some mandatory consultees) on the terms of the condition, and publishing conditions. In addition, the Commission must notify licensees in advance of a proposed imposition, modification or revocation of a general condition, giving three months notice, unless the matter is urgent. This ensures that licensees have adequate notice of general conditions and changes that may be made to them over time.
238. Additionally, the Commission has power, under [section 77](#) to impose specific conditions on individual operating licences. These conditions are not subject to any publication or general consultation requirements, in contrast with general conditions. Rather, these conditions will address particular matters concerning an individual

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

operator and its activities, where the Commission considers it appropriate. So, for example, the Commission could attach an individual condition on a particular casino operating licence that not more than five casino premises can be operated under it, due to the financial strength of the operator. Every operating licence issued must specify any individual conditions attached to it under this section.

239. Alongside the powers of the Commission to attach conditions to operating licences, the Secretary of State may make regulations which provide for a specific condition to be attached to a class of operating licence, under section 78.

Section 79: Scope of powers to attach conditions

240. This section gives specific examples of the matters to which general, individual or Secretary of State conditions may relate. The section does not limit the breadth of the matters with which these three types of condition can deal. Instead, this section helps provide some understanding of the matters which conditions may cover.

241. A condition may:

- limit or restrict the nature or extent of the gambling facilities provided, or control the circumstances in which they are carried on;
- make provision about the facilities that may be provided, the manner in which the facilities are provided or the number of people employed in providing facilities;
- make provision about the financial resources available to the licensee, including the maintenance of reserves in respect of potential liabilities;
- where it is a remote operating licence, may restrict the methods of remote communication that may be used;
- make provision about the advertising or description of facilities for gambling (which could include the name given to a gambling product);
- make provision about assistance to people who are or may be affected by problem gambling; and
- require the operator to identify or record the identity of users of his facilities.

Section 80: Requirement for personal licence

242. Part 6 of the Act provides the licensing system for personal licences. This section sets out the relationship between an operating licence and the need for an operator to use people holding personal licences to provide certain functions and facilities for gambling.

243. When the Commission considers an application for an operating licence, it will consider what offices or functions in the organisation should be performed by a personal licence holder, and attach conditions to the licence specifying what the requirements for personal licences are to be. These conditions could be set by general or individual condition, or the Secretary of State may set generic conditions by regulations to apply to classes of operating licence.

244. There will be one mandatory condition on every operating licence, which is that every operating licence must specify at least one management office which is to be occupied by a person who holds a personal licence (*subsection (1)*). This will be set as a general or individual condition, not a Secretary of State condition. Beyond this one mandatory personal licence, the Commission may identify any additional number of posts in an operator's organisation which must be filled by a personal licence holder (*subsections (2) to (4)*). Such conditions will always relate to either a management office or an operational function.

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

245. Management office (*subsection (5)*) means:
- A director of a company;
 - A partner;
 - An officer in an unincorporated association; and
 - Any position which (by reason of the terms of the appointment) carries responsibility for:
 - the conduct of a person who performs an operational function; or
 - facilitating or ensuring compliance with the terms of the operating licence.
246. Operational function (*subsection (6)*) means:
- any function that enables the person to influence the outcome of gambling;
 - receiving or paying money in connection with the gambling; or
 - specified activities in relation to the manufacture and supply of gaming machines.
247. The Secretary of State has the power to amend these definitions through secondary legislation (*subsection (8)*).
248. These broad definitions will enable the Commission to consider the particular circumstances of each operator (irrespective of the job titles the operator may use) and identify those functions and offices within an organisation that will require a person to hold a personal licence when carrying them out. This section is not intended to require everyone performing any management office or operational function (as described above) to hold a personal licence. The Commission will decide what the appropriate licensing requirements are to be, either on an individual basis, or, where it is able to do so, according to classes of operating licence.
249. If an operator does not use a person holding an appropriate personal licence to perform an office or function identified by the Commission, it will breach a condition of its operating licence.
250. While this section provides the mechanism for operating licences to contain conditions about matters to be undertaken by a personal licence holder, it does not cover the process for obtaining a personal licence. That is set out at Part 6 of the Act.
251. *Subsection (9)* contains an exemption from the requirements of this section for clubs or miners' welfare institutes holding a bingo operating licence. Part 12 requires clubs or miners' welfare institutes which provide facilities for bingo that exceed a specified threshold in terms of stakes or prizes in any week, to obtain a bingo operating licence. Games played below this threshold are authorised by other provisions in Part 12. Officers of these associations are not required to hold personal licences in relation to their additional bingo operating licence, and this subsection exempts them accordingly.

Section 81: Credit and inducements

252. This section concerns restrictions on the offering of credit and inducements by operating licence holders. *Subsection (1)* provides that a condition may be attached by the Commission to an operating licence relating to:
- the giving of credit in relation to the licensed gambling activities;
 - making offers or inducements designed to induce participation in the licensed gambling activities; or
 - being party to arrangements for inducing, permitting or assisting person to gamble.

253. In addition to this general condition-making power, *subsection (2)* provides that holders of non-remote casino or bingo licences may not themselves give any form of credit to people using their facilities. Nor may they arrange, permit or knowingly facilitate credit in connection with their gambling facilities. This means that credit cards cannot be used to pay for gambling offered by casino or bingo operators. A similar restriction is placed upon the relevant premises licences in Part 8, and Part 10 prevents credit cards being used to pay for gaming machines.
254. *Subsection (3)* allows cash-withdrawal machines accepting credit cards to be used by casino or bingo operators, provided that:
- the nature and location of the machines complies with any relevant licence conditions; and
 - the provider of the machine and the gambling operator are unconnected, and no payment is made or received in connection with the machine.
255. *Subsection 4* defines “credit” to include any form of financial accommodation and the acceptance of payment of a fee, charge, or stake in anything other than cash, cheque or debit card payment is considered credit.

Section 82: Compliance with code of practice

256. This section makes it a condition of all operating licences that the holder must comply with any code of practice relating to social responsibility which is relevant to them. Codes of practice issued by the Commission under Part 2 are not of themselves automatically binding on operators, but are part of the overall scheme of regulation. However, this section provides that social responsibility provisions in any code are incorporated as conditions to an operating licence.

Section 83: Return of stakes to children

257. The Act contains a range of provisions designed to prevent children and young people from gambling. Under this section a condition is imposed on all operating licences which requires operators to take certain steps in the event that they become aware that a child or young person has used their facilities to gamble. A child is a person under 16, and a young person a person under 18.
258. If an operator becomes aware that a child or young person has used his gambling facilities, then the operator must return any money paid by the child or young person as soon as practicable, and must not pay out any winnings (although if winnings have been paid out before the operator is aware of the claimant’s age, he may not demand repayment).
259. This section does not apply to the use of the lowest stake gaming machine (a Category D machine) or equal chance gaming at a licensed Family Entertainment Centre (which can be played pursuant to authorisations under Part 13). The section only applies to children (and not a young person) when the gambling activity concerned is football pools or a lottery. The condition imposed by this section cannot be overridden by any contract or other agreement.

Section 84: Premises

260. It is the role of licensing authorities to licence specific premises upon which facilities for gambling may be provided in Great Britain. These matters are regulated by Part 8 of the Act. Therefore, an operating licence cannot be subject to a condition which specifies particular premises upon which gambling activities must or must not be carried on. However, conditions may be attached to operating licences which deal with the number of sets of premises on which the licensed activities may be carried on (e.g. a maximum of 100 betting shops) or the number of people for whom facilities may be provided on any premises where the licensed activities are carried on.

261. An operating licence is not limited to authorising the provision of facilities in one place. The fact that an operating licence is a “casino” operating licence or an operating licence for an “adult gaming centre” does not mean this only authorises the provision of one such facility. An operating licence gives a generic entitlement, to be used alongside any number of premises licences, subject to any conditions imposed under subsection (1) of this section.

Section 85: Equipment

262. In issuing an operating licence, the Commission may attach a condition about the amount or specification of equipment to be used in the licensed gambling activities. Such equipment may include computers or devices for playing casino games, but does not include a gaming machine. This ties in with the powers of the Commission to consider the suitability of equipment when considering an application for a licence.
263. The section contains a specific provision for equipment used for playing bingo. Under *subsection (2)(a)* a condition cannot be attached to a licence about the number of pieces of equipment used for playing bingo. This means that equipment such as “mechanised cash bingo equipment”, used under the Gaming Act 1968 regime, cannot be subject to control about its numbers. It can be subject to licence conditions about its specification under *subsection (2)(b)*, and such specification will enable this equipment to fall outside the definition of gaming machine in Part 10.
264. Similarly, the Commission can use subsection (2)(b) to specify equipment for playing bingo in adult gaming centres or licensed family entertainment centres, (bingo played pursuant to the prize gaming entitlements in Part 13). Where it does so, such equipment will not constitute a gaming machine.

Section 86: Gaming machines

265. While certain operating licences confer general permissions to use gaming machines, under section 68, the permission to use gaming machines on particular premises is contained in Parts 8 and 10 of the Act. This means that the Commission should not attach conditions to operating licences concerning numbers or categories of gaming machines which an operator is entitled to use. Therefore, *subsection (1)* prevents operating licences having conditions attached to them about:
- the number or categories of gaming machine that may be made available for use in accordance with an operating licence; or
 - anything that contradicts regulations concerning the use of gaming machines, made by the Secretary of State under Part 10.
266. This does not mean that the Commission cannot regulate the manufacture and supply of machines. Section 96 makes express provision for the Commission to set standards for the gaming machine technical operating licence.
267. *Subsection (2)* provides a mechanism for the Commission to require operators to stop using machines that have been illegally manufactured, supplied, or handled. The Commission may notify an operator that a machine is not covered by an appropriate gaming machine technical operating licence, or does not comply with Commission standards. After such notification, the Commission may place a condition on the relevant operating licence requiring the operator to stop making the machine available for use. Failure to do so will amount to breach of the licence.

Section 87: Membership

268. Under the Gaming Act 1968 it is a requirement that gaming licences under Part II of that Act can only be held by casinos or bingo halls that operate as a members’ club. That rule is abolished by this Act, and as a result, this section provides that neither the Commission nor the Secretary of State can impose a condition on an operating licence

requiring facilities to be provided on the basis of a club or on any other membership basis. However, nothing in this section or the rest of the Act prevents organisations from operating as a members' club if they so wish.

Section 88: Information

269. This section permits the Commission or the Secretary of State to impose licence conditions requiring operators to pass information to the Commission or to such other people as may be specified. The purpose of this power is to promote information exchange between the Commission, operators and, for example, sporting regulators. The type of information which could be covered includes information concerning cheating or breach of sporting rules. Licence conditions could also be used to supplement the voiding of bets powers in Part 17. Voluntary codes are already in place in parts of the gambling industry to allow such information exchange. This section allows a uniform approach for different sectors to be established, as appropriate.

Section 89: Remote operating licence

270. This section sets out particular rules applying to a remote operating licence.
271. It is a presumption of a remote operating licence that remote gambling equipment used by the operator in providing facilities for gambling must be located in Great Britain. This is set out in *subsection (1)*. Part 3 contains the definition of remote gambling equipment.
272. *Subsection (2)* empowers the Commission to depart from this general presumption, in certain circumstances. The Commission may allow an operator to site particular pieces of specified remote gambling equipment off-shore, provided the Commission is satisfied that to do so is consistent with the licensing objectives in section 1. For example, the power could be used in relation to equipment facilitating player to player games which can involve individuals in different jurisdictions being pooled by operators. The matter is one of discretion, for the Commission.
273. Without prejudice to its other condition-making powers, the Commission may establish, or authorise others to establish on its behalf, standards in respect of systems and processes used for remote gambling. These standards will be relevant to the consideration of applications for remote operating licences, made under section 69. The Commission can enforce these standards through licence conditions, including the testing of the operator's systems, on application and from time to time.

Section 90: Casino operating licence

274. **Part 1** provides a definition of casino, and gives the Secretary of State powers to define categories of casino. Under *subsection (1)* the Commission or the Secretary of State can impose conditions on any casino operating licence which restricts the type of casino game that can be made available. Under the Gaming Act 1968 these restrictions were imposed by secondary legislation. Under the Act the Commission has the power to achieve this by licence condition, or the Secretary of State may do so by regulations.
275. *Subsection (2)* provides that the Commission may specify rules for casino games or any equal chance game played in a casino. Again, this power replaces the position under the Gaming Act where these matters were prescribed in secondary legislation.

Section 91: Bingo operating licence

276. The Secretary of State may use her regulation making to attach conditions to bingo operating licences on the matters specified in *subsection (1)*. This includes power to limit the amount of stakes or participation fees or value of prizes; or requiring a specified proportion of stakes to be paid out by way or prizes, or imposing requirements specific to bingo games that are played on more than one set of premises. *Subsection (2)* then lists

matters about which conditions cannot be made in relation to bingo operating licences. This means that the Commission has no power to set conditions on these matters, and, to the extent that it is not expressly permitted by subsection (1), nor does the Secretary of State.

277. The introduction of remote operating licences, together with the Secretary of State's power to impose requirements that are specific to games played on more than one set of premises, at *subsection (1)(e)*, replace the statutory provisions relating to "multiple" and "linked" bingo that are repealed by this Act. Remote operating licences will be required by those wishing to provide bingo by means of remote communication, even where the bingo is played partly on licensed bingo premises. The fees for these licences will be commensurate with the regulatory costs for the particular activities concerned.
278. *Subsection (2)(f)* prevents a condition being attached to a bingo operating licence which prohibits or limits the roll-over of prizes between bingo games. Neither the Secretary of State, nor the Commission can attach a condition relating to the roll-over of prizes.
279. In setting participation fees under subsection (1), different types of fee may be set, as amplified by section 344. For example, fees for admission to the premises can be distinguished from a fee to participate in a particular game. Fees can also be apportioned between gambling and non-gambling purposes.

Section 92: General betting operating licence

280. A general betting operating licence will be required by anyone wishing to accept or make bets by way of business (this includes negotiation of bets). If someone wishes to provide facilities merely for other people to accept and make bets, then the relevant operating licence will be a betting intermediary operating licence, not a general betting operating licence, as the latter is relevant only for people who are themselves making or accepting bets in the course of a business. See also sections 353(2)(a), 296(3) and 302.
281. This licence replaces the bookmaker's permit under section 2 of, and Schedule 1, to the Betting, Gaming and Lotteries Act 1963.
282. *Subsection (1)* sets out who is empowered to accept bets under the terms of a general betting operating licence: this will be the licence holder, an employee of the licence holder and any other holder of a general betting operating licence. No other person may accept or make bets under the authorisation of a general betting operating licence.
283. *Subsection (2)* makes it clear that a general betting operating licence contains an implied term permitting the making of bets via postal services. This prevents any question of the need for a remote licence arising in relation to bets made by post.

Section 93: Pool betting operating licence

284. Where an operator is making or accepting pool bets (as defined in section 12), then the appropriate operating licence will be a pool betting operating licence. This type of licence may cover any form of pool betting, but conditions may limit the particular pool betting activities an operator may provide. For example, a pool betting operating licence may specify that the operator may only operate pool betting in relation to football pools.
285. This licence replaces the system for registration of pools promoters under section 4 of, and Schedule 2 to, the Betting, Gaming and Lotteries Act 1963. It is also the form of authorisation that will be required by operators of pool betting on dog-tracks, previously authorised by section 4(1)(b) of the 1963 Act. Part 8 of this Act contains separate provisions governing the use of dog-track premises for pool betting. Horserace pool betting is dealt with in the next section.
286. As with the general betting operating licence, there are restrictions on who is permitted to accept pool bets under the licence. The restrictions are the same as those for the general betting operating licence, except that pool betting operators will also be allowed

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

to authorise agents to accept bets on their behalf in certain circumstances. Those circumstances are:

- where the agent is on a track in reliance on an occasional use notice and is accepting bets in relation to a horse-race or a dog race on that track. In these circumstances the agent must be an adult and be authorised in writing to accept bets on behalf of the licensee (*subsection (2)*); or
- where the pool betting operating licence permits the operator to provide football pools and the operator has given written authority to an adult or young person to receive entries or payments on football pools on his behalf (“authorised collector”) (*subsections (3) to (6)*). In these circumstances the authorised collector may provide coupons, receive entries and payments, and pay winnings, pursuant to the operating licence. Conditions may also be imposed on the operating licence specific to the authorised collectors.

287. Under *subsection (9)* the Secretary of State may change, by order, the types of event on a track (subject to an occasional use notice) for which an agent may be authorised to take pool bets under *subsection (2)*, and may add sports to the matters for which agents can be authorised under *subsection (3)*, in addition to football pools.

288. *Subsection (7)* makes it clear that a pool betting operating licence contains an implied term permitting the making of pool bets via postal services. This prevents any question of the need for a remote licence.

Section 94: Horse-race pool betting operating licence

289. Where a pool betting licence authorises the provision of horserace pool betting, then the operating licence may specify that this section has effect. The intention is that this section will be needed in circumstances where only one licence for horserace pool betting has effect in Great Britain.

290. Under *subsection (2)*, the holder of a pool betting licence, who is licensed to conduct horserace pool betting, may authorise in writing any person to provide facilities for horserace pool betting, and this authorisation may include terms as to payment. This means that, for example, such an authority may be used by a person to accept pool bets on horse races on premises with a betting premises licence, or pursuant to an occasional use notice. This authorisation may also be made the subject of specific conditions on the operating licence (*subsection (5)*). *Subsection (6)* makes it clear that a pool betting operating licence contains an implied term permitting the making of pool bets via postal services.

291. The Secretary of State has the power to repeal this section if circumstances dictate that it is no longer needed i.e. if there are no longer exclusive arrangements for horserace pool betting in Great Britain. In such circumstances, the pool betting operating licence would become the only kind of licence relevant to pool betting in Great Britain, and would also cover horserace pool betting. Section 358(4) to (6) makes specific provision concerning commencement of this Act, and transitional powers relating to the [Horserace Betting Olympic Lottery Act 2004 \(c.25\)](#).

Section 95: Betting on the National Lottery

292. This section replaces provisions in the Betting, Gaming and Lotteries Act 1963 which caused a bookmaker to lose his licence if he took bets on the outcome of the National Lottery (Schedule 1, paragraph 18A). Under this section, all types of operating licences permitting betting are subject to a mandatory condition that no betting takes place on the outcome of the National Lottery.

Section 96: Gaming machine technical operating licence

293. Without prejudice to other condition-making powers, the Commission may establish, or authorise others to establish on its behalf, standards in respect of systems and processes used for the manufacture, supply, installation, adaptation, maintenance or repair of a gaming machine, or software for use in a gaming machine (*subsection (1)*). These standards must be consistent with the rules concerning gaming machines contained in Part 10 (*subsection (2)*).
294. These standards may cover technical matters about the functioning of the machines. Under *subsection (3)* they may also cover matters such as the nature of the gambling involved, the way in which the results are presented or determined, and the nature of the information displayed on the machine. This is intended to be used, in particular, to provide standards which discourage repetitive play and protect children.
295. The Commission can enforce these standards through licence conditions, including the testing of the operator's systems on application, and from time to time.

Section 97: Gambling software: operating licence: standards

296. This section permits the Commission to set standards for gambling software supply and manufacture for use in remote gambling. Similar powers are set out in sections 89 and 96 for remote gambling and gaming machines respectively. The section describes the powers the Commission has, including authorising individuals to test software, or a random sample of software and requiring licensees to make software available for testing.

Section 98: Lottery operating licences

297. This section provides for the Commission to issue licences for the operation of lotteries. Lotteries which form part of the National Lottery (which are not covered by this Act), or that are classed as "exempt" lotteries under Schedule 11, will not require a licence under these provisions.
298. A lottery operating licence may only be issued to the following:
- non-commercial societies;
 - local authorities; and
 - external lottery managers.
299. Section 18 of the Act contains a definition of "non-commercial society". A non-commercial society, which wishes to hold lotteries, will only require an operating licence under this section if the proceeds of the lotteries they promote exceed the thresholds set out in Part 4 of Schedule 11 to the Act. Below these thresholds, the lottery will be classified as a "small society lottery", and will be exempt from the requirement to obtain a licence (although they will require registration with a local authority).
300. The types of local authority which may promote a lottery are broadly defined, and include parish councils in England, and community councils in Wales (*subsection (7)*).
301. *Subsection (2)* allows the Commission flexibility in terms of the scope of operating licences. A licence may authorise promotion generally, or specific promotion activities. It may authorise promotion of lotteries generally, or only in connection with lotteries of certain types or in certain circumstances.
302. A licence may authorise a person to act as an external lottery manager, to provide lottery management services on behalf of local authorities, and on behalf of non-commercial societies, whether licensed or exempt. The Commission has the power to include a condition on a lottery operating licence that all of the arrangements for the lottery are to be made by an external lottery manager. If the Commission does so,

it will not be required to form an opinion about the suitability of the local authority or non-commercial society in terms of integrity, competence or financial and other circumstances (under section 70(2)), when considering their application for a licence. Their assessment will be of the lottery manager only. The Commission may similarly assume the integrity of particular classes of applicant, and, for example, could do so where a local authority is making the application (see section 70(7)).

303. *Subsections (4) and (5)* ensure that it will not be possible to prohibit the delivery of lottery tickets by post in relation to these lotteries, either by regulations made by the Secretary of State, or by conditions made by the Commission. *Subsection (6)* specifically empowers the Commission to attach conditions to the licence concerning rollovers, that is the carry over of prizes from one lottery to another, as defined in Part 11.

Section 99: Mandatory conditions of lottery operating licence

304. This section provides that the Commission must attach certain conditions to lottery operating licences issued to non-commercial societies and local authorities, for the purpose of achieving the requirements set out in the section. The Commission is not restricted to these conditions, and may attach conditions which are similar, but more onerous, than those specified here.
305. Various conditions must be attached to licences which set money or percentage limits in relation to proceeds and prizes. At least 20% of the proceeds of any lottery promoted under the licence must go to good causes. In the case of a non-commercial society, this means that a minimum of 20% of the proceeds must be used for the purposes for which the society is conducted. In the case of a local authority, 20% of the proceeds must be put towards a purpose for which it has the power to incur expenditure. Under all lottery operating licences, the proceeds of any single lottery must be limited, and the proceeds of all lotteries in one year are restricted to an overall upper limit. There is also an upper limit on the size of a prize in a licensed lottery. These limits are set out in *subsections (2) to (4)*.
306. Conditions must be attached to the licence prescribing certain requirements in relation to tickets. In particular, the information specified in *subsections (5) and (6)* must be included on the ticket. One ticket may provide entry to a number of lotteries, provided the information contained on it is sufficient that the dates of the draws in those lotteries are able to be determined. A ticket need not be a paper document, but if it is in electronic form, it must be capable of being printed out or electronically stored (*subsection (7)*). This will permit, for example, entry to a lottery over the internet. No additional payment apart from the ticket price may be required for entry into the lottery (*subsection (8)*).
307. The Secretary of State has power to vary, by order, the money amounts and percentages set out in this section (*subsection (10)*).

Section 100: Annual fee

308. The holder of an operating licence must pay a fee to the Commission for the licence to have effect (“the first annual fee”), and, thereafter must pay an annual fee before each anniversary of the issue of the licence. These annual fees acts as renewal fees in the sense that failure to pay them can lead to revocation of the licence. These fees are different to the application fee required when making an application for a licence. The Secretary of State will use regulations to set the fees and the period within which the first annual fee must be paid. Different fees may be set for different kinds of operating licences and different circumstances.

Section 101: Change of circumstance

309. If an operator has a change of circumstance after an operating licence is issued he may be required, by regulations (under this section) or by conditions attached to his licence,

to inform the Commission of the change of circumstance. There is a fee to be paid by for the operator. The Commission must then amend the licence as appropriate to reflect the change in circumstances.

310. This section sets out the regulation making power of the Secretary of State, and provides that a licence holder commits an offence if he fails, without reasonable excuse, to comply with a requirement to inform the Commission of a change of circumstance. The maximum penalty for the offence is a fine not exceeding level 2 on the standard scale. The Commission may also suspend or revoke an operating licence if the holder fails to comply with regulations under this section.

Sections 102 & 103: Change of corporate control

311. If the holder of an operating licence is a company limited by shares, a mechanism is needed to allow the Commission to approve a change of control of that company (i.e. following sale, transfer, allotment or issue of shares). These sections provide that mechanism.
312. This mechanism applies to any kind of operating licence, but the Secretary of State may make regulations exempting specified kinds of operating licence from these requirements.
313. This section uses the definitions set out in the Financial Services and Markets Act 2000. It provides that if a person becomes a “controller” of a company which holds an operating licence (“the company”), then the company must surrender the licence to the Commission, or apply to the Commission for approval for the licence to continue to have effect.
314. If the company wishes to apply for approval for the licence to continue to have effect (which will attract a fee to be set by the Secretary of State), then the Commission may require information about the change of control and the new controller. The Commission may give approval if it is satisfied that that it would have granted the operating licence at the time of the original application, had the new controller been the controller of the company at the time. If it is not so satisfied, then the Commission must revoke the operating licence. A company has five weeks from the date when the new controller takes over in which to surrender its licence, or apply for a continuation, otherwise the Commission will revoke the licence (unless the Commission chooses to extend this period, which it may do, even after the 5 weeks has expired, provide the licence has not already been revoked).
315. In requiring information in relation to a change of control, the Commission is required to have regard to normal commercial practices concerning confidentiality.
316. These sections apply to the merger or division of companies, but where this is the cause of a change of controller, the Secretary of State may set reduced fees for applications in these circumstances.

Section 104: Application to vary licence

317. Holders of operating licences may, for their own commercial reasons, wish to vary the gambling facilities that they provide, whether that is to cease carrying out an activity, or to start a new activity. Equally, they may wish to vary an individual condition that has been attached to their licence. In such circumstances, the holder of an operating licence will need to apply to the Commission to vary the terms of the licence.
318. This section permits holders to apply for a variation of an operating licence, and applies the provisions of Part 5, modified as appropriate, to the variation process. Regulations by the Secretary of State will provide the relevant procedures.
319. An application for variation cannot be used to transfer an operating licence to another person. Operating licences are non-transferable.

Section 105: Amendment

320. This section provides that the Commission may require the holder of an operating licence to submit the licence to the Commission for amendment in a number of circumstances where it requires changes to be made to it.
321. A licence holder has 14 days to comply with a requirement to send his licence to the Commission in response to a request, and commits an offence if he fails to do so without reasonable excuse. The maximum penalty is a fine not exceeding level 2 on the standard scale. The Commission also has power to suspend or revoke a licence if the holder fails to comply with the requirements set out here.

Section 106: Register of operating licences

322. To allow the public to find out whether a person providing gambling facilities holds the necessary permission, licence or permit, the Act contains a series of requirements for various registers to be maintained. This section requires the Commission to maintain a register of operating licences and to make it available to the public. A fee may be payable to gain access to the register, but the fee must not exceed the reasonable cost of providing the service.

Sections 107 & 108: Copy of licence and production of licence

323. These sections allow the Commission:
- to issue to a licence holder a copy of the licence in the event that it has been lost, stolen or damaged; and
 - (together with the police) to require the holder of an operating licence to produce it within a specified period. The licensee will be committing an offence if he fails without reasonable excuse to comply with this requirement. The maximum penalty is a fine not exceeding level 2 on the standard scale.

Section 109: Conviction

324. One of the licensing objectives in the Act is to prevent gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime. This section requires holders of operating licences to take certain steps in the event that they are convicted of a criminal offence in Great Britain or abroad.
325. Where the holder of an operating licence is convicted of an offence in Great Britain, or of a relevant offence by a court outside Great Britain, he must inform the Commission as soon as reasonably practical. This ensures that the Commission has the necessary information it needs to regulate licence holders, and could, if it wished, commence a review of the licence.
326. If the holder of an operating licence is convicted of a relevant offence before a court in Great Britain he must inform the court immediately that he holds an operating licence. This is so that the court can consider whether it should exercise its powers to order forfeiture of the operating licence as part of the sentence it imposes for the offence.
327. A list of offences which are “relevant offences” is set out at Schedule 7. These are offences under British law (the jurisdictions of England and Wales, and Scotland). An offence under the law of another country is a relevant offence if it is similar in nature to an offence listed in Schedule 7. This ensures that a person’s suitability to hold a licence is considered in relation to any criminal conviction for a serious offence, not just those in Great Britain (see section 126 for the definition of “relevant offence”).

Sections 110 & 111: Duration

328. As a general rule, operating licences will be of indefinite duration, subject to rules about lapse, forfeiture and the Commission's regulatory powers. However, the Commission has power to determine that operating licences, or a particular class of operating licence, should be given a particular duration. Such a determination will be made and promulgated as part of the Commission's licensing policy statement under Part 2.
329. Where the Commission determines a particular duration under section 111, this will apply to existing and future licences. However, for existing licences the duration will begin from the date of publication of the determination rather than the date the licence was granted.

Section 112: Renewal of licence

330. This section provides that where the Commission has decided that operating licences are to have a fixed duration under section 111, procedures for the renewal of licences can be put in place.

Sections 113 & 114: Surrender and Lapse

331. A licence ceases to have effect if it is surrendered to the Commission. This provides a voluntary procedure for a licence holder to give up his licence if he so wishes.
332. A licence will lapse, and is not transferable, if the licence holder:
- Dies;
 - In the opinion of the Commission becomes incapable of carrying out the licensed activities (from which there is a right of appeal); or
 - Becomes bankrupt or goes into liquidation.

Section 115: Forfeiture

333. This section provides courts with the power to order forfeiture of an operating licence where it is sentencing the holder of a licence on conviction for a relevant offence, as defined in section 126. This allows the courts to take appropriate steps to bring a licence to an end, without the Commission needing to take separate regulatory action.

Section 116: Review

334. **Section 110** provides that operating licences are granted for an indefinite period. However, the Commission has power to introduce time limits for licences if it believes there is a regulatory need to do so. Therefore, the general position is that licences will not need to be renewed at any point. Section 116 gives the Commission the power to review, over time, the performance of licence holders and the operation of licence conditions.
335. First, under *subsection (1)* the Commission may review matters relating to a class of operating licence i.e. not an individual licence, but a type of licence. For example, the Commission could review the operation of all gaming machine general operating licences. The purpose will be to review the manner in which licensees, as a whole, carry on licensed activities, and particularly, how licensees comply with the conditions attached to the class of operating licence. The purpose of this type of review could be to consider whether any changes to general conditions on licences are needed.
336. Secondly, under *subsection (2)*, the Commission has power to review any matter relating to an individual operating licence on any of three grounds:
- If the Commission suspects that conditions of an operating licence are being breached;

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

- If the Commission believes that the licence holder or any person connected with the gambling activities, has been convicted of a relevant offence in Great Britain or abroad; or
 - If the Commission for any reason:
 - suspects that the licence holder may be unsuitable to perform the licensed activities; or
 - thinks that a review would be appropriate.
337. The section makes it clear that a review can be carried out even if there is no suspicion or belief about the licence holder's activities. This ensures that a licence could be reviewed solely on the grounds, for example, that it had been held for a long period of time, and that the Commission considered a review prudent.
338. In the event that the Commission decides to carry out a review of an individual licence there are procedural requirements to ensure that the licence holder can take part in the review (*subsections (4) and (5)*).

Sections 117 to 121: Regulatory powers

339. The Commission has a range of powers available to it, exercisable after a review, or in circumstances where a licence holder has failed to comply with other requirements specified in Part 5 of the Act (e.g. to pay the annual fee). These sections outline these powers, and the procedural steps the Commission must take before exercising them.
340. The Commission can:
- give the licensee a warning;
 - add, remove or vary a condition to the licence;
 - make, amend or remove an exclusion;
 - suspend or revoke the licence; or
 - impose a financial penalty.
341. Suspension powers are available to the Commission at the outset of, and during, a review. Therefore, if the Commission considers a matter sufficiently serious, it can require the operator to suspend all or part of his activities pending the outcome of the review. The Commission also has powers to suspend a licence following a review.
342. Where the Commission concludes that a licence holder has breached the conditions of his licence, it may impose a financial penalty on the licence holder. The Commission must take a number of procedural steps before it can impose such a penalty, which include providing the licence holder with reasons for the proposed penalty, and time in which to make representations to the Commission. The Commission is subject to a time limit for imposing a penalty of two years following the date of the breach, or the date the Commission becomes aware of the breach, whichever is later.
343. To ensure that licence holders are aware of the way in which the Commission intends to use its power to impose financial penalties, the Commission must prepare and publish a statement of the principles it will apply in exercising these powers. In particular, the Commission must, in considering the imposition of a penalty, have regard for the seriousness of the breach of condition, whether the licensee knew or ought to have known of the breach and the nature of the licensee (including his financial resources). Before preparing or revising such a statement the Commission must consult the Secretary of State, the Lord Chancellor and other people as the Commission thinks appropriate.

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

344. All the regulatory powers available to the Commission under these sections are subject to full rights of appeal for those affected by them, under Part 7, to the Gambling Appeals Tribunal.

Section 122: Information

345. To assist the Commission to carry out its functions, this section sets out obligations on licence holders to comply with requests for information. These cannot be “fishing exercises” by the Commission, but must concern questions of whether the licence holder has breached his licence conditions, or is unsuitable to carry on gambling activities. Non-compliance without reasonable excuse is an offence that will attract a fine not exceeding level 2 on the standard scale.

Section 123: Levy

346. This section provides the Secretary of State with reserve powers to impose an annual financial levy on the holders of all operating licences. The power cannot be exercised in relation to particular classes of operating licence. If introduced, the levy will apply to all classes of operating licence. The levy would be paid to the Commission, and treated as if it were part of the annual fee. This means that a licence would be revocable if the levy was not paid.
347. The money raised by a levy would be used for alleviating problem gambling. Thus, the Commission could spend it on purposes or projects related to gambling addiction or other forms of harm or exploitation associated with gambling. The Treasury and the Secretary of State must consent to the Commission’s expenditure of the levy. Such projects need not be undertaken by the Commission itself, but the Commission could fund others (including other public sector bodies) who are undertaking projects connected with problem gambling.
348. The section sets out the matters relating to the levy which must be set out in the regulations. A number of alternative methods for calculating the levy are listed, but none are mandatory. Depending on the method of calculation chosen, different levies could be charged to different operators. Before making these regulations imposing a levy, the Secretary of State must consult the Commission.
349. Provision is made, under Schedule 3 to the Act, for the National Lottery to be made subject to levy requirements also. A levy in these circumstances could not be imposed until the powers under this section had been exercised.

Section 125: Relevant offence: disapplication of rehabilitation

350. This section identifies certain circumstances when section 4 of the [Rehabilitation of Offenders Act 1974 \(c.53\)](#) will not apply. This means that the Commission will be able to look at spent convictions in some cases. Where a person has a conviction for a relevant offence (defined in section 126) then the Commission will be able to consider a spent conviction for the offence when a person applies for an operating licence.

Section 126: Interpretation

351. This section provides definitions for terms used throughout Part 5, including “relevant offence”.