



# Gambling Act 2005

## 2005 CHAPTER 19

### PART 1

#### INTERPRETATION OF KEY CONCEPTS

##### *Principal concepts*

#### **1 The licensing objectives**

In this Act a reference to the licensing objectives is a reference to the objectives of—

- (a) preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime,
- (b) ensuring that gambling is conducted in a fair and open way, and
- (c) protecting children and other vulnerable persons from being harmed or exploited by gambling.

#### **2 Licensing authorities**

(1) For the purposes of this Act the following are licensing authorities—

- (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, and
  - (v) 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).

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- (2) For the purposes of Schedule 13, the Sub-Treasurer of the Inner Temple and the Under-Treasurer of the Middle Temple are licensing authorities.

### **3 Gambling**

In this Act “gambling” means—

- (a) gaming (within the meaning of section 6),
- (b) betting (within the meaning of section 9), and
- (c) participating in a lottery (within the meaning of section 14 and subject to section 15).

### **4 Remote gambling**

- (1) In this Act “remote gambling” means gambling in which persons participate by the use of remote communication.
- (2) In this Act “remote communication” means communication using—
- (a) the internet,
  - (b) telephone,
  - (c) television,
  - (d) radio, or
  - (e) any other kind of electronic or other technology for facilitating communication.
- (3) The Secretary of State may by regulations provide that a specified system or method of communication is or is not to be treated as a form of remote communication for the purposes of this Act (and subsection (2) is subject to any regulations under this subsection).

### **5 Facilities for gambling**

- (1) For the purposes of this Act a person provides facilities for gambling if he—
- (a) invites others to gamble in accordance with arrangements made by him,
  - (b) provides, operates or administers arrangements for gambling by others, or
  - (c) participates in the operation or administration of gambling by others.
- (2) But a person does not provide facilities for gambling for the purposes of this Act by virtue only of—
- (a) providing an article other than a gaming machine to a person who intends to use it, or may use it, in the course of any of the activities mentioned in subsection (1)(a) to (c),
  - (b) providing, otherwise than in the course of providing, operating or administering arrangements for gambling or participating in the operation or administration of gambling, an article to a person who intends to use it, or may use it, for gambling, or
  - (c) making facilities for remote communication available for use by—
    - (i) persons carrying on any of those activities, or
    - (ii) persons gambling in response to or in accordance with any of those activities.

- (3) A person provides facilities for gambling (despite subsection (2)(c)) if—
- (a) he makes facilities for remote communication available for use,
  - (b) the facilities are adapted or presented in such a way as to facilitate, or to draw attention to the possibility of, their use for gambling, and
  - (c) the nature, adaptation or presentation of the facilities is such that—
    - (i) they cannot reasonably be expected to be used for purposes other than gambling, or
    - (ii) they are intended to be used wholly or mainly for gambling.
- (4) The Secretary of State may by order, for the purposes of subsection (3)(c)—
- (a) provide that facilities of a specified nature, or adapted or presented in a specified way, cannot reasonably be expected to be used for purposes other than gambling;
  - (b) provide that facilities of a specified nature, or adapted or presented in a specified way, can reasonably be expected to be used for purposes other than gambling;
  - (c) specify criteria by which it is to be determined whether facilities can reasonably be expected to be used for purposes other than gambling;
  - (d) provide that facilities of a specified nature, or adapted or presented in a specified way, shall be taken as being intended to be used wholly or mainly for gambling;
  - (e) provide that facilities of a specified nature, or adapted or presented in a specified way, shall be taken as not being intended to be used wholly or mainly for gambling;
  - (f) specify criteria by which it is to be determined whether facilities are intended to be used wholly or mainly for gambling.

### *Gaming*

## **6 Gaming & game of chance**

- (1) In this Act “gaming” means playing a game of chance for a prize.
- (2) In this Act “game of chance”—
- (a) includes—
    - (i) a game that involves both an element of chance and an element of skill,
    - (ii) a game that involves an element of chance that can be eliminated by superlative skill, and
    - (iii) a game that is presented as involving an element of chance, but
  - (b) does not include a sport.
- (3) For the purposes of this Act a person plays a game of chance if he participates in a game of chance—
- (a) whether or not there are other participants in the game, and
  - (b) whether or not a computer generates images or data taken to represent the actions of other participants in the game.
- (4) For the purposes of this Act a person plays a game of chance for a prize—

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- (a) if he plays a game of chance and thereby acquires a chance of winning a prize, and
  - (b) whether or not he risks losing anything at the game.
- (5) In this Act “prize” in relation to gaming (except in the context of a gaming machine)—
- (a) means money or money’s worth, and
  - (b) includes both a prize provided by a person organising gaming and winnings of money staked.
- (6) The Secretary of State may by regulations provide that a specified activity, or an activity carried on in specified circumstances, is or is not to be treated for the purposes of this Act as—
- (a) a game;
  - (b) a game of chance;
  - (c) a sport.

## 7 Casino

- (1) For the purposes of this Act a casino is an arrangement whereby people are given an opportunity to participate in one or more casino games.
- (2) In this Act “casino game” means a game of chance which is not equal chance gaming.
- (3) But the Secretary of State may by regulations provide that a specified activity, or an activity carried on in specified circumstances, is to be or not to be treated as a casino game for the purposes of this Act (and subsection (2) is subject to regulations under this subsection).
- (4) For the purposes of this section it is immaterial—
- (a) whether an arrangement is provided on one set of premises or on more than one;
  - (b) whether an arrangement is provided wholly or partly by means of remote communication.
- (5) The Secretary of State shall make regulations by reference to which any casino may be classified as—
- (a) a regional casino,
  - (b) a large casino,
  - (c) a small casino, or
  - (d) below the minimum size for a licensed casino.
- (6) Regulations under subsection (5) may make provision by reference to—
- (a) the number of gaming tables used or designated for the playing of specified casino games or classes of casino game,
  - (b) the location of gaming tables used or designated for the playing of specified casino games or classes of casino game,
  - (c) the concentration of gaming tables used or designated for the playing of specified casino games or classes of casino game,
  - (d) the floor area used or designated for a specified purpose,
  - (e) any combination of the matters listed in paragraph (a) to (d), or
  - (f) any other matter.

- (7) Regulations under subsection (5) may—
- (a) include provision for determining what floor area is to be treated as being used or designated for a purpose;
  - (b) include provision for determining what activities do or do not amount to the playing of a specified casino game or class of casino game;
  - (c) include provision for determining what is or is not to be treated as a gaming table (and, in particular, in what circumstances a number of tables are to be treated as if they were a single gaming table);
  - (d) provide that a gaming table is to be treated as being used or designated only if specified conditions (which may, in particular, relate to purpose of use, extent of use or circumstances of use) are satisfied.

## **8 Equal chance gaming**

- (1) For the purposes of this Act gaming is equal chance gaming if—
- (a) it does not involve playing or staking against a bank, and
  - (b) the chances are equally favourable to all participants.
- (2) For the purposes of subsection (1) it is immaterial—
- (a) how a bank is described, and
  - (b) whether or not a bank is controlled or administered by a player.

### *Betting*

## **9 Betting: general**

- (1) In this Act “betting” means making or accepting a bet on—
- (a) the outcome of a race, competition or other event or process,
  - (b) the likelihood of anything occurring or not occurring, or
  - (c) whether anything is or is not true.
- (2) A transaction that relates to the outcome of a race, competition or other event or process may be a bet within the meaning of subsection (1) despite the facts that—
- (a) the race, competition, event or process has already occurred or been completed, and
  - (b) one party to the transaction knows the outcome.
- (3) A transaction that relates to the likelihood of anything occurring or not occurring may be a bet within the meaning of subsection (1) despite the facts that—
- (a) the thing has already occurred or failed to occur, and
  - (b) one party to the transaction knows that the thing has already occurred or failed to occur.

## **10 Spread bets, &c.**

- (1) For the purposes of section 9(1) “bet” does not include a bet the making or accepting of which is a regulated activity within the meaning of section 22 of the Financial Services and Markets Act 2000 (c. 8).

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- (2) An order under section 22 of that Act which has the effect that a class of bet becomes or ceases to be a regulated activity may, in particular, include transitional provision relating to the application of this Act to that class of bet.
- (3) This section is subject to section 38(3).

## **11 Betting: prize competitions**

- (1) For the purposes of section 9(1) a person makes a bet (despite the fact that he does not deposit a stake in the normal way of betting) if—
  - (a) he participates in an arrangement in the course of which participants are required to guess any of the matters specified in section 9(1)(a) to (c),
  - (b) he is required to pay to participate, and
  - (c) if his guess is accurate, or more accurate than other guesses, he is to—
    - (i) win a prize, or
    - (ii) enter a class among whom one or more prizes are to be allocated (whether or not wholly by chance).
- (2) In subsection (1) a reference to guessing includes a reference to predicting using skill or judgment.
- (3) Schedule 1 makes further provision about when a person is to be or not to be treated for the purposes of subsection (1)(b) as being required to pay to participate in an arrangement.
- (4) In subsection (1)(c) “prize” includes any money, articles or services—
  - (a) whether or not described as a prize, and
  - (b) whether or not consisting wholly or partly of money paid, or articles or services provided, by the members of the class among whom the prizes are allocated.

## **12 Pool betting**

- (1) For the purposes of this Act betting is pool betting if made on terms that all or part of winnings—
  - (a) shall be determined by reference to the aggregate of stakes paid or agreed to be paid by the persons betting,
  - (b) shall be divided among the winners, or
  - (c) shall or may be something other than money.
- (2) For the purposes of this Act pool betting is horse-race pool betting if it relates to horse-racing in Great Britain.

## **13 Betting intermediary**

- (1) In this Act “betting intermediary” means a person who provides a service designed to facilitate the making or acceptance of bets between others.
- (2) For the purposes of this Act acting as a betting intermediary is providing facilities for betting.

## *Lottery*

### **14 Lottery**

- (1) For the purposes of this Act an arrangement is a lottery, irrespective of how it is described, if it satisfies one of the descriptions of lottery in subsections (2) and (3).
- (2) An arrangement is a simple lottery if—
  - (a) persons are required to pay in order to participate in the arrangement,
  - (b) in the course of the arrangement one or more prizes are allocated to one or more members of a class, and
  - (c) the prizes are allocated by a process which relies wholly on chance.
- (3) An arrangement is a complex lottery if—
  - (a) persons are required to pay in order to participate in the arrangement,
  - (b) in the course of the arrangement one or more prizes are allocated to one or more members of a class,
  - (c) the prizes are allocated by a series of processes, and
  - (d) the first of those processes relies wholly on chance.
- (4) In this Act “prize” in relation to lotteries includes any money, articles or services—
  - (a) whether or not described as a prize, and
  - (b) whether or not consisting wholly or partly of money paid, or articles or services provided, by the members of the class among whom the prize is allocated.
- (5) A process which requires persons to exercise skill or judgment or to display knowledge shall be treated for the purposes of this section as relying wholly on chance if—
  - (a) the requirement cannot reasonably be expected to prevent a significant proportion of persons who participate in the arrangement of which the process forms part from receiving a prize, and
  - (b) the requirement cannot reasonably be expected to prevent a significant proportion of persons who wish to participate in that arrangement from doing so.
- (6) Schedule 2 makes further provision about when an arrangement is to be or not to be treated for the purposes of this section as requiring persons to pay.
- (7) The Secretary of State may by regulations provide that an arrangement of a specified kind is to be or not to be treated as a lottery for the purposes of this Act; and—
  - (a) the power in this subsection is not constrained by subsections (1) to (6) or Schedule 2, and
  - (b) regulations under this subsection may amend other provisions of this section or Schedule 2.

### **15 National Lottery**

- (1) Participating in a lottery which forms part of the National Lottery is not gambling for the purposes of this Act (despite section 3(c) but subject to subsections (2) and (3) below).
- (2) Participating in a lottery which forms part of the National Lottery is gambling for the purposes of—

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- (a) section 42, and
  - (b) section 335.
- (3) Where participating in a lottery which forms part of the National Lottery would also constitute gaming within the meaning of section 6, it shall be treated as gaming for the purposes of this Act if and only if a person participating in the lottery is required to participate in, or to be successful in, more than three processes before becoming entitled to a prize.
- (4) Participating in a lottery which forms part of the National Lottery shall not be treated as betting for the purposes of this Act where it would—
- (a) satisfy the definition of pool betting in section 12, or
  - (b) satisfy the definition of betting in section 9 by virtue of section 11.
- (5) Schedule 3 shall have effect.

*Cross-category activities*

**16 Betting and gaming**

- (1) This section applies to a transaction which satisfies—
- (a) the definition of betting in section 9, and
  - (b) the definition of gaming in section 6.
- (2) A transaction to which this section applies which is pool betting (within the meaning of section 12) shall be treated for the purposes of this Act as betting (and not as gaming).
- (3) Any other transaction to which this section applies shall be treated for the purposes of this Act as gaming (and not as betting).
- (4) This section is subject to regulations under section 6(6).

**17 Lotteries and gaming**

- (1) This section applies to an arrangement which satisfies—
- (a) the definition of a game of chance in section 6, and
  - (b) the definition of a lottery in section 14.
- (2) An arrangement to which this section applies shall be treated for the purposes of this Act as a game of chance (and not as a lottery) if a person who pays in order to join the class amongst whose members prizes are allocated is required to participate in, or to be successful in, more than three processes before becoming entitled to a prize.
- (3) An arrangement to which this section applies shall, subject to subsection (2), be treated for the purposes of this Act as a lottery (and not as a game of chance) if—
- (a) it satisfies paragraph 1(1)(a) and (b) of Schedule 11,
  - (b) it satisfies paragraph 10(1)(a) and (b) of Schedule 11,
  - (c) it satisfies paragraph 11(1)(a) and (b) of Schedule 11,
  - (d) it satisfies paragraph 12(1)(a) and (b) of Schedule 11,
  - (e) it satisfies paragraph 20(1)(a) and (b) of Schedule 11,
  - (f) it satisfies paragraph 30(1)(a) and (b) of Schedule 11, or
  - (g) it is promoted in reliance on a lottery operating licence.



- (4) Any other arrangement to which this section applies shall be treated for the purposes of this Act as a game of chance (and not as a lottery).
- (5) This section is subject to regulations under section 6(6) or 14(7).

## **18 Lotteries and betting**

- (1) This section applies to a transaction which satisfies the definition of participating in a lottery in section 14 and also—
  - (a) satisfies the definition of pool betting in section 12, or
  - (b) satisfies the definition of betting in section 9 by virtue of section 11.
- (2) A transaction to which this section applies shall be treated for the purposes of this Act as participating in a lottery (and not as betting) if—
  - (a) it satisfies paragraph 1(1)(a) and (b) of Schedule 11,
  - (b) it satisfies paragraph 10(1)(a) and (b) of Schedule 11,
  - (c) it satisfies paragraph 11(1)(a) and (b) of Schedule 11,
  - (d) it satisfies paragraph 12(1)(a) and (b) of Schedule 11,
  - (e) it satisfies paragraph 20(1)(a) and (b) of Schedule 11,
  - (f) it satisfies paragraph 30(1)(a) and (b) of Schedule 11, or
  - (g) it is promoted in reliance on a lottery operating licence.
- (3) Any other transaction to which this section applies shall be treated for the purposes of this Act as betting (and not as participating in a lottery).
- (4) This section is subject to regulations under section 14(7).

### *Miscellaneous*

## **19 Non-commercial society**

- (1) For the purposes of this Act a society is non-commercial if it is established and conducted—
  - (a) for charitable purposes,
  - (b) for the purpose of enabling participation in, or of supporting, sport, athletics or a cultural activity, or
  - (c) for any other non-commercial purpose other than that of private gain.
- (2) In subsection (1) “charitable purposes” means—
  - (a) in relation to England and Wales, purposes which are exclusively charitable according to the law of England and Wales, and
  - (b) in relation to Scotland, purposes which are charitable purposes only (that expression having the same meaning as in the Income Tax Acts).
- (3) The provision of a benefit to one or more individuals is not a provision for the purpose of private gain for the purposes of this Act if made in the course of the activities of a society that is a non-commercial society by virtue of subsection (1)(a) or (b).