



# Betting, Gaming and Lotteries Act 1963

## 1963 CHAPTER 2

### PART II

#### GAMING

#### **32 General provisions as to gaming**

- (1) Subject to the provisions of this Act, any gaming shall be lawful if, but only if, it is conducted in accordance with the following conditions, that is to say—
- (a) that either—
    - (i) the chances in the game are equally favourable to all the players ; or
    - (ii) the gaming is so conducted that the chances therein are equally favourable to all the players: and
  - (b) that no money or money's worth which any of the players puts down as stakes, or pays by way of losses, or exchanges for tokens used in playing the game, is disposed of otherwise than by payment to a player as winnings; and
  - (c) that no other payment in money or money's worth is required for a person to take part in the gaming.
- (2) If in any proceedings under 'this section evidence is adduced that gaming took place on any premises and either—
- (a) that the game was, or was a variant of or of a similar nature to, a game which is capable of being played in accordance with the ordinary rules thereof in such a manner that the chances therein are not equally favourable to all the players, and that ten or more persons were present at the gaming; or
  - (b) that a payment of money or money's worth was required in order to obtain access to the premises,

then, subject to section 36 of this Act, it shall be held that the gaming was unlawful gaming unless it is proved that the gaming was conducted in accordance with the conditions set out in subsection (1) of this section.

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*Status: This is the original version (as it was originally enacted).*

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- (3) Subject to the provisions of this Act, no gaming shall take place at which any person under the age of eighteen years is included among the players, except where both the following conditions are satisfied, that is to say—
- (a) that the gaming takes place in a private dwelling-house or in the presence of a parent or guardian of that person; and
  - (b) that any such person taking part in the gaming does so with the permission, whether general or special, of a parent or guardian of that person.
- (4) If any gaming takes place on any premises—
- (a) which is by virtue of subsection (1) of this section, or is held in pursuance of subsection (2) of this section to have been, unlawful gaming; or
  - (b) which contravenes subsection (3) of this section,
- any person concerned in the organisation or management of the gaming, and any other person who, knowing or having reasonable cause to suspect that unlawful gaming or gaming in contravention of the said subsection (3) would take place on those premises—
- (i) allowed the premises to be used for the purposes of gaming; or
  - (ii) let the premises, or otherwise made the premises available, to any person by whom an offence in connection with the gaming has been committed,
- shall be guilty of an offence; and for the purposes of this subsection any person who took part in procuring the assembly of the players shall be deemed to have been concerned in the organisation of the gaming.
- (5) Any person who is present at any gaming such as is mentioned in subsection (4) (a) or (b) of this section for the purposes of taking part therein shall be liable on summary conviction to a fine not exceeding fifty pounds:
- Provided that, for the purposes of any proceedings under this subsection in respect of gaming such as is mentioned in the said subsection (4)(a), subsection (1)(c) of this section shall be deemed to be omitted if the person charged proves that he was not required to make, or to undertake to make, any payment such as is mentioned in the said subsection (1)(c) and that he neither knew nor had reasonable cause to suspect that any other person was so required.
- (6) For the purposes of the last foregoing subsection, proof that any person was present at any gaming shall be evidence that he was present for the purpose of taking part therein unless he proves that he was present neither for that purpose nor for any of the following purposes, that is to say, taking part in the management of the gaming, operating any instrument or other thing whatsoever used in connection with the gaming, or making bets with respect to the gaming.
- (7) In any proceedings in respect of a contravention of subsection (3) of this section in the case of any gaming, it shall be a defence to prove that the person charged neither knew nor had reasonable cause to suspect that any of the players was under the age of eighteen years.
- (8) In the application of this section to Scotland—
- (a) in subsection (2), for the words " evidence is adduced " there shall be substituted the words " it is proved ";
  - (b) subsection (6) shall not apply, but, in any proceedings in Scotland under subsection (5), if any person is proved to have been present at the gaming to which the proceedings relate, that person shall be held to have been present

for the purpose of taking part therein unless he proves that he was present neither for that purpose nor for any of the following purposes, that is to say, taking part in the management of the gaming, operating any instrument or other thing whatsoever used in connection with the gaming, or making bets with respect to the gaming.

### **33 Gaming machines**

(1) Section 32 of this Act shall not apply to gaming by means of a gaming machine but, subject to the provisions of this Act, if any such gaming takes place on any premises to which, whether on payment or otherwise, the public have access, or which are used wholly or mainly by persons under the age of eighteen years, or, except in accordance with the conditions set out in subsection (2) of this section, on any other premises—

- (a) any person who knowingly allowed the premises to be used for the purposes of the gaming; and
- (b) any other person who, knowing or having reasonable cause to suspect that the premises would be used for such gaming—
  - (i) caused or allowed the machine to be placed on the premises; or
  - (ii) let the premises, or otherwise made the premises available, to any person by whom an offence in connection with the gaming was committed,

shall be guilty of an offence.

(2) The conditions referred to in the foregoing subsection are—

- (a) that not more than two gaming machines are made available for play in any one building or, where different parts of a building are occupied by two or more different persons, in the part or parts of the building occupied by any one of those persons; and
- (b) that the stake required to be hazarded in order to play the game once does not exceed sixpence; and
- (c) that all stakes hazarded are applied either in the payment of winnings to a player of the game or for purposes other than private gain.

(3) In this section—

- (a) the expression " gaming machine " means a machine for playing a game of chance, being a game which requires no action by any player other than the actuation or manipulation of the machine; and
- (b) the expression " building " includes the curtilage of the building.

### **34 Gaming in public places**

(1) Subject to the provisions of this Act, if any person takes part in gaming in any street or in any other place to which, whether on payment or otherwise, the public have access, he shall be liable on summary conviction to a fine not exceeding fifty pounds.

(2) A constable may arrest without warrant anyone whom he finds in a street or in any such place as aforesaid and whom he suspects, with reasonable cause, to be committing an offence under this section.

(3) In this section, the expression " street " has the meaning assigned by section 8 (4) (a) and (b) of this Act.

**35 Saving for dominoes and cribbage on licensed premises, etc.**

- (1) Section 34 of this Act shall not apply to the playing of dominoes or cribbage—
- (a) on premises in respect of which there is for the time being in force a justices' on-licence granted under the Licensing Act 1953 or a hotel certificate or public house certificate granted under the Licensing (Scotland) Act 1959 ; or
  - (b) on premises in any district specified in Part I of Schedule 9 to the said Act of 1953 or in Part I of Schedule 8 to the said Act of 1959 which are being used for the sale on behalf of the Secretary of State of intoxicating or, as the case may be, exciseable liquor for consumption on those premises.
- (2) The licensing justices for any licensing district within the meaning of the said Act of 1953, or the licensing court for any licensing area within the meaning of the said Act of 1959, may at any time, if in the case of any particular premises such as aforesaid situated within that district or area they think fit so to do, by order impose such requirements or restrictions with respect to the playing of the said games on any part of those premises to which the public have access as they consider necessary to secure—
- (a) that the games are not played on that part of the premises in such circumstances as to constitute an inducement to persons to resort thereto primarily for the purpose of taking part in gaming at those games; and
  - (b) that any such gaming on that part of the premises does not take place for high stakes.
- (3) The justices or court aforesaid may at any time by a further order vary or revoke any previous order made under this section.
- (4) An order under this section with respect to any premises shall come into force upon notice thereof being given—
- (a) in the case of premises such as are mentioned in subsection (1) (a) of this section, to the person who is for the time being the holder of the licence or certificate aforesaid in respect of those premises;
  - (b) in the case of premises such as are mentioned in subsection (1)(b) of this section, to the Secretary of State,
- and the justices or court shall send a copy of the notice to the chief officer of police for the police area in which the premises are situated; and, subject to any further order varying or revoking it, the order shall continue in force so long as the premises continue to be premises such as are mentioned in subsection (1) of this section.
- (5) Section 166 of the Licensing Act 1953 (which relates to the application of that Act to the Isles of Scilly) shall have effect as if the reference therein to the functions of the licensing justices under Part VII of that Act included a reference to the functions of those justices under this section.

**36 Saving for clubs**

In any proceedings under section 32 of this Act, gaming shall be held to have been conducted in accordance with the condition set out in subsection (1) (c) of that section if it is proved—

- (a) that the gaming was carried on as an activity of a club ; and
- (b) that, apart from any annual subscription for membership of the club, the only other payment required for a person to take part in the gaming was of a fixed sum of money determined before the gaming began; and
- (c) that no person took part in the gaming who was not either—

- (i) a member of the club in pursuance of an application or nomination for membership made more than twenty-four hours before the gaming began ; or
- (ii) a bona fide guest of such a member; and
- (d) that the club is so constituted and conducted, both as regards membership and otherwise, as not to be of a merely temporary character.

### **37 Saving for entertainments not held for private gain**

- (1) Where gaming is carried on at an entertainment promoted for raising money to be applied for purposes other than private gain, then, in relation to that gaming—
  - (a) so much of section 34 of this Act as relates to gaming in a place other than a street shall not apply ; and
  - (b) section 32 of this Act shall have effect—
    - (i) as if subsection (2) (b) thereof were omitted; and
    - (ii) as if for the conditions set out in subsection (1) (b) and (c) of that section there were substituted the conditions set out in subsection (2) of this section.
- (2) The conditions referred to in the foregoing subsection are—
  - (a) that not more than one payment (whether by way of entrance fee or stake or otherwise) is made by each player in respect of all games played at the entertainment, and that no such payment exceeds five shillings;
  - (b) that not more than one distribution of prizes or awards is made in respect of all games played at the entertainment, and that, subject to subsection (3) of this section, the total value of all prizes and awards distributed in respect of those games does not exceed twenty pounds ;
  - (c) that the whole of the proceeds of such payments as are mentioned in paragraph (a) of this subsection, after deducting sums lawfully appropriated on account of expenses or for the provision of prizes or awards in respect of the games, are applied for purposes other than private gain;
  - (d) that the amount of the said proceeds appropriated in respect of expenses does not exceed the reasonable cost of the facilities provided for the purposes of the games.
- (3) Where two or more entertainments are promoted on the same premises by the same persons on the same day, the conditions set out in subsection (2) of this section shall apply in relation to those entertainments collectively as if they were a single entertainment; but, save as aforesaid, where a series of such entertainments is held, the said conditions shall apply separately to each entertainment in the series, whether or not some or all of the persons taking part in any one of those entertainments are thereby qualified to take part in any other of them; and where each of the persons taking part in the games played at the final entertainment of such a series is qualified to do so by reason of having taken part in the games played at another entertainment of that series held on a previous day, subsection (2)(b) of this section shall apply in relation to that final entertainment as if for the words " twenty pounds " there were substituted the words " one hundred pounds " .

**38 Supplementary provisions with respect to gaming**

- (1) Notwithstanding any rule of law, premises shall not be a common gaming house by reason of the carrying on of gaming thereon.
- (2) Nothing in section 41 of this Act shall make unlawful any gaming conducted in such circumstances that no offence under this Part of this Act is committed.
- (3) Notwithstanding any rule of law, for the purposes of any enactment relating to betting, the expression "bet" shall not include any bet or stake at any gaming conducted as aforesaid.
- (4) Notwithstanding any rule of law—
  - (a) the making of bets by way of pool betting; and
  - (b) participation in any lottery which satisfies the conditions set out in subsection (5) of this section,shall not be held to be gaming.
- (5) The conditions referred to in subsection (4) (b) of this section are—
  - (a) that the lottery is a lottery declared by section 43, 44 or 45 of this Act not to be unlawful; and
  - (b) that each winner of a prize is ascertained by reference to not more than three determining factors, each of those factors being either the result of a draw or other determination or the outcome of an event.

**39 Local authorities not to subsidise premises for gaming**

It is hereby declared that nothing contained in section 132 of the Local Government Act 1948 or in any local or private Act shall be deemed to authorise any local authority to maintain or subsidise any premises wholly or mainly for the purpose of persons resorting thereto habitually for the purpose of taking part in gaming:

Provided that this section shall not apply where the gaming is by way only of amusements with prizes and the premises are premises in respect of which a permit for the provision thereon of such amusements has been granted, and is for the time being in force, under Schedule 6 to this Act.

**40 References in other Acts to gaming or unlawful games**

In the following provisions, that is to say, section 44 of the Metropolitan Police Act 1839, section 28 of the City of London Police Act 1839, section 32 of the Refreshment Houses Act 1860 and section 141 (1) of the Licensing Act 1953 (which prohibit gaming in refreshment houses or on licensed premises), any reference to gaming or unlawful games shall be construed as a reference to the playing of any game in such circumstances that an offence under this Part of this Act is committed or a requirement or restriction for the time being in force under section 35 of this Act is contravened.