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.

Commencement Information

I1 S. 1 in force at 1.10.2005 by S.I. 2005/2455, art. 2(1), **Sch.** (with art. 3)

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

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Changes to legislation: *There are currently no known outstanding effects for the Gambling Act 2005. (See end of Document for details)*

(ii) a county borough council, and

(c) in relation to Scotland, a licensing board **[**[F1]continued in existence by or established under section 5 of the Licensing (Scotland) Act 2005 (asp 16)**]**.

(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.

Textual Amendments

F1 Words in s. 2(1)(c) substituted (1.9.2009 at 5.00 a.m.) by The Licensing (Scotland) Act 2005 (Consequential Provisions) Order 2009 (S.S.I. 2009/248), **sch. 1 para. 12(2)** (with art. 3)

Commencement Information

I2 S. 2 in force at 1.10.2005 by S.I. 2005/2455, art. 2(1), **Sch.** (with art. 3)

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).

Commencement Information

I3 S. 3 in force at 1.10.2005 by S.I. 2005/2455, art. 2(1), **Sch.** (with art. 3)

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).

Commencement Information

I4 S. 4 in force at 1.10.2005 by S.I. 2005/2455, art. 2(1), **Sch.** (with art. 3)

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.

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Commencement Information
I5 S. 5 in force at 1.10.2005 by S.I. 2005/2455, art. 2(1), **Sch.** (with art. 3)

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—
- (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.

Commencement Information
I6 S. 6 in force at 1.10.2005 by S.I. 2005/2455, art. 2(1), **Sch.** (with art. 3)

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.

Commencement Information

I7 S. 7(1)-(4) in force at 1.10.2005 by S.I. 2005/2455, art. 2(1), **Sch.** (with art. 3)

I8 S. 7(5)(b)-(d)(6)(7) in force at 20.5.2008 by S.I. 2008/1326, art. 2, **Sch.**

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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.

Commencement Information
I9 S. 8 in force at 1.10.2005 by S.I. 2005/2455, art. 2(1), **Sch.** (with art. 3)

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.

Commencement Information
I10 S. 9 in force at 1.10.2005 by S.I. 2005/2455, art. 2(1), **Sch.** (with art. 3)

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).

(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).

Commencement Information

I11 S. 10(1)(2) in force at 1.10.2005 by S.I. 2005/2455, art. 2(1), **Sch.** (with art. 3)

I12 S. 10(3) in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

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.

Commencement Information

I13 S. 11 in force at 1.10.2005 by S.I. 2005/2455, art. 2(1), **Sch.** (with art. 3)

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.

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Commencement Information
I14 S. 12 in force at 1.10.2005 by S.I. 2005/2455, art. 2(1), **Sch.** (with art. 3)

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.

Commencement Information
I15 S. 13 in force at 1.10.2005 by S.I. 2005/2455, art. 2(1), **Sch.** (with art. 3)

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.

Commencement Information

I16 S. 14 in force at 1.10.2005 by S.I. 2005/2455, art. 2(1), **Sch.** (with art. 3)

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—

(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.

Commencement Information

I17 S. 15(1)-(4) in force at 1.10.2005 by S.I. 2005/2455, art. 2(1), **Sch.** (with art. 3)

I18 S. 15(5) in force at 1.10.2005 for specified purposes by S.I. 2005/2455, art. 2(1), **Sch.** (with art. 3)

I19 S. 15(5) in force at 1.9.2007 in so far as not already in force by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

Cross-category activities

16 Betting and gaming

(1) This section applies to a transaction which satisfies—

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(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).

Commencement Information
I20 S. 16 in force at 1.10.2005 by S.I. 2005/2455, art. 2(1), **Sch.** (with art. 3)

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).

Commencement Information
I21 S. 17 in force at 1.10.2005 by S.I. 2005/2455, art. 2(1), **Sch.** (with art. 3)

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).

Commencement Information

I22 S. 18 in force at 1.10.2005 by S.I. 2005/2455, art. 2(1), **Sch.** (with art. 3)

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, **[**[F2]purposes which are exclusively charitable purposes (as defined by section 2 of the Charities Act 2011)**]** , 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).

Textual Amendments

F2 Words in s. 19(2)(a) substituted (14.3.2012) by Charities Act 2011 (c. 25), s. 355, **Sch. 7 para. 105** (with s. 20(2), Sch. 8)

Commencement Information

I23 S. 19 in force at 1.10.2005 by S.I. 2005/2455, art. 2(1), **Sch.** (with art. 3)

PART 2

THE GAMBLING COMMISSION

20 Establishment of the Commission

(1) There shall be a body corporate to be known as the Gambling Commission.

(2) Schedule 4 (which makes provision about the constitution and proceedings of the Commission) shall have effect.

Commencement Information

I24 S. 20 in force at 1.10.2005 by S.I. 2005/2455, art. 2(1), **Sch.** (with art. 3)

21 Gaming Board: transfer to Commission

(1) Section 10 of and Schedule 1 to the Gaming Act 1968 (c. 65) (Gaming Board for Great Britain) shall cease to have effect.

(2) The functions, rights and liabilities of the Gaming Board for Great Britain shall on commencement become functions, rights and liabilities of the Gambling Commission.

(3) The persons who immediately before commencement are the members of the Gaming Board for Great Britain shall be treated as if on commencement they were appointed as commissioners of the Gambling Commission under paragraph 1 of Schedule 4 to this Act.

(4) The person who immediately before commencement is the chairman of the Gaming Board for Great Britain shall be treated as if on commencement he were appointed as the chairman of the Gambling Commission under paragraph 1 of Schedule 4 to this Act.

(5) In this section "commencement" means the coming into force of this section.

(6) Schedule 5 (which makes supplementary provision in relation to the transfer of functions and property from the Gaming Board to the Gambling Commission) shall have effect.

Commencement Information

I25 S. 21 in force at 1.10.2005 by S.I. 2005/2455, art. 2(1), **Sch.** (with art. 3)

22 Duty to promote the licensing objectives

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

(a) to pursue, and wherever appropriate to have regard to, the licensing objectives, and

(b) to permit gambling, in so far as the Commission thinks it reasonably consistent with pursuit of the licensing objectives.

Commencement Information

I26 S. 22 in force at 1.10.2005 by S.I. 2005/2455, art. 2(1), **Sch.** (with art. 3)

23 Statement of principles for licensing and regulation

(1) The Commission shall prepare a statement setting out the principles to be applied by it in exercising its functions under this Act.

(2) The statement under this section shall, in particular, explain how the principles to be applied are expected to assist the Commission in its pursuit of the licensing objectives.

(3) The Commission shall—

(a) review the statement from time to time, and

(b) revise the statement when the Commission thinks it appropriate.

(4) The Commission shall as soon as is reasonably practicable publish—

(a) the statement, and

(b) any revision.

(5) Before issuing or revising a statement under this section the Commission shall consult—

(a) the Secretary of State,

(b) Her Majesty's Commissioners of Customs and Excise,

(c) one or more persons who appear to the Commission to represent local authorities (including, in Scotland, licensing boards),

(d) one or more persons who appear to the Commission to represent chief constables of police forces,

[[F3](da) the chief constable of the Police Service of Scotland,**]**

(e) one or more persons who appear to the Commission to represent the interests of persons carrying on gambling businesses,

(f) one or more persons who appear to the Commission to have knowledge about social problems relating to gambling, and

(g) to such extent and in such manner as the Commission thinks appropriate, members of the public.

Textual Amendments

F3 S. 23(5)(da) inserted (1.4.2013) by The Police and Fire Reform (Scotland) Act 2012 (Consequential Provisions and Modifications) Order 2013 (S.I. 2013/602), art. 1(2), **Sch. 2 para. 49(2)**

Commencement Information

I27 S. 23 in force at 1.10.2005 by S.I. 2005/2455, art. 2(1), **Sch.** (with art. 3)

24 Codes of practice

(1) The Commission shall issue one or more codes of practice about the manner in which facilities for gambling are provided (whether by the holder of a licence under this Act or by another person).

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(2) In particular, a code shall describe arrangements that should be made by a person providing facilities for gambling for the purposes of—
  (a) ensuring that gambling is conducted in a fair and open way,
  (b) protecting children and other vulnerable persons from being harmed or exploited by gambling, and
  (c) making assistance available to persons who are or may be affected by problems related to gambling.

(3) A code may include provision about how facilities for gambling are advertised or described.

(4) A code may be revised or revoked by the Commission.

(5) A code, and any revision, must state when it comes into force.

(6) The Commission shall publish a code and any revision in a manner which the Commission thinks likely to bring it to the attention of those whose activities it concerns.

(7) The Commission may make different provision under this section for different cases or circumstances (whether or not by way of separate codes of practice).

(8) A failure to comply with a provision of a code shall not of itself make a person liable to criminal or civil proceedings; but this subsection is subject to any provision of or by virtue of this Act making an exception to an offence dependent on compliance with a code.

(9) But a code—
  (a) shall be admissible in evidence in criminal or civil proceedings,
  (b) shall be taken into account by a court or tribunal in any case in which it appears to the court or tribunal to be relevant, and
  (c) shall be taken into account by the Commission in the exercise of a function under this Act.

(10) Before issuing or revising a code under this section the Commission shall consult—
  (a) the Secretary of State,
  (b) Her Majesty's Commissioners of Customs and Excise,
  (c) one or more persons who appear to the Commission to represent the interests of persons who—
    (i) carry on gambling businesses, and
    (ii) are likely to be affected by the code or revision,
  (d) one or more persons who appear to the Commission to have knowledge about social problems relating to gambling, and
  (e) in the case of a code including provision by virtue of subsection (3), one or more persons who appear to the Commission to have a relevant responsibility for regulating the advertising industry.

(11) Before issuing or revising a code under this section the Commission shall also consult, if and to the extent that the Commission thinks appropriate having regard to the nature of the code or revision—
  (a) one or more persons who appear to the Commission to represent local authorities (including, in Scotland, licensing boards),

(b) one or more persons who appear to the Commission to represent chief constables of police forces,

[[F4](ba) the chief constable of the Police Service of Scotland,**]**

(c) one or more persons who appear to the Commission to represent the interests of persons carrying on gambling businesses (apart from those consulted under subsection (10)(c)), and

(d) in such manner as the Commission thinks appropriate, members of the public.

Textual Amendments

F4 S. 24(11)(ba) inserted (1.4.2013) by The Police and Fire Reform (Scotland) Act 2012 (Consequential Provisions and Modifications) Order 2013 (S.I. 2013/602), art. 1(2), **Sch. 2 para. 49(3)**

Commencement Information

I28 S. 24(1)-(8) (10) (11) in force at 1.10.2005 by S.I. 2005/2455, art. 2(1), **Sch.** (with art. 3)

I29 S. 24(9) in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

25 Guidance to local authorities

(1) The Commission shall from time to time issue guidance as to—

(a) the manner in which local authorities are to exercise their functions under this Act, and

(b) in particular, the principles to be applied by local authorities in exercising functions under this Act.

(2) A local authority shall have regard to guidance issued under subsection (1).

(3) The Commission shall publish guidance issued under subsection (1).

(4) Before issuing guidance under subsection (1) the Commission shall consult—

(a) the Secretary of State,

(b) Her Majesty's Commissioners of Customs and Excise,

(c) the Scottish Ministers,

(d) one or more persons who appear to the Commission to represent local authorities,

(e) one or more persons who appear to the Commission to represent the interests of persons carrying on gambling businesses, and

(f) one or more persons who appear to the Commission to have knowledge about social problems relating to gambling.

(5) Before issuing guidance under subsection (1) the Commission shall also consult, if and to the extent that the Commission thinks appropriate having regard to the nature of the guidance—

(a) one or more persons who appear to the Commission to represent chief constables of police forces, [F5]...

[[F6](aa) the chief constable of the Police Service of Scotland, and**]**

(b) in such manner as the Commission thinks appropriate, members of the public.

(6) In this section “local authority” means—

(a) in relation to England—

(i) a district council,
(ii) a county council for a county in which there are no district councils,
(iii) a London borough council,
(iv) the Common Council of the City of London,
(v) the Sub-Treasurer of the Inner Temple and the Under-Treasurer of the Middle Temple, and
(vi) the Council of the Isles of Scilly,

(b) in relation to Wales—
(i) a county council, and
(ii) a county borough council, and

(c) in relation to Scotland, a licensing board **[**[F7]continued in existence by or established under section 5 of the Licensing (Scotland) Act 2005 (asp 16)**]** .

Textual Amendments

F5 Word in s. 25(5)(a) omitted (1.4.2013) by virtue of The Police and Fire Reform (Scotland) Act 2012 (Consequential Provisions and Modifications) Order 2013 (S.I. 2013/602), art. 1(2), **Sch. 2 para. 49(4)(a)**

F6 S. 25(5)(aa) inserted (1.4.2013) by The Police and Fire Reform (Scotland) Act 2012 (Consequential Provisions and Modifications) Order 2013 (S.I. 2013/602), art. 1(2), **Sch. 2 para. 49(4)(b)**

F7 Words in s. 25(6)(c) substituted (1.9.2009 at 5.00 a.m.) by The Licensing (Scotland) Act 2005 (Consequential Provisions) Order 2009 (S.S.I. 2009/248), **sch. 1 para. 12(3)** (with art. 3)

Commencement Information

I30 S. 25 in force at 1.10.2005 by S.I. 2005/2455, art. 2(1), **Sch.** (with art. 3)

26 Duty to advise Secretary of State

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

(2) Advice under this section shall be given—
(a) in response to a request from the Secretary of State, and
(b) on such other occasions as the Commission thinks appropriate.

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

Commencement Information

I31 S. 26 in force at 1.10.2005 by S.I. 2005/2455, art. 2(1), **Sch.** (with art. 3)

27 Compliance

The Commission may undertake activities for the purpose of assessing—
(a) compliance with provision made by or by virtue of this Act;

(b) whether an offence is being committed under or by virtue of this Act.

Commencement Information

I32 S. 27 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

28 Investigation and prosecution of offences

(1) The Commission—

(a) may investigate whether an offence has been committed under this Act, and

(b) may institute criminal proceedings in respect of an offence under this Act.

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

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

Commencement Information

I33 S. 28 in force at 1.1.2007 for specified purposes by S.I. 2006/3272, art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

I34 S. 28 in force at 1.9.2007 in so far as not already in force by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

29 Licensing authority information

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

(a) forms part of a register maintained by the authority under this Act, or

(b) is in the possession of the authority in connection with a provision of this Act.

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

(a) compiled or collated in a specified manner;

(b) provided in a specified form.

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

Commencement Information

I35 S. 29 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

30 Other exchange of information

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

(a) for use in the exercise of the person's or body's functions, or

(b) for the purpose of a function of the Commission.

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

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

(4) The Commission may provide information received by it in the exercise of its functions to a person if the provision is for the purpose of—

(a) a criminal investigation (whether in the United Kingdom or elsewhere), or

(b) criminal proceedings (whether in the United Kingdom or elsewhere).

(5) Note 2 to Schedule 6 shall not apply to the provision of information under subsection (3).

(6) Provision of information in reliance on this section may be subject to conditions (whether as to use, storage, disposal or otherwise).

(7) The Commission may charge a fee for the provision of information under subsection (1)(a).

(8) This section is subject to section 352.

[[F8](9) Nothing in this section authorises—

(a) the Commission to provide to the Commissioners for Her Majesty's Revenue and Customs information received by it in the exercise of its national lottery functions, or

(b) the Commissioners for Her Majesty's Revenue and Customs to provide information to the Commission for use in the exercise of its national lottery functions;

and for these purposes "national lottery functions" has the meaning given by section 4B(6) of the National Lottery etc. Act 1993 (disclosure of information between the Commission and the Commissioners for Her Majesty's Revenue and Customs).**]**

Textual Amendments

F8 S. 30(9) inserted (1.10.2013) by The Public Bodies (Merger of the Gambling Commission and the National Lottery Commission) Order 2013 (S.I. 2013/2329), art. 1(2), **Sch. para. 12** (with art. 8, Sch. para. 43)

Commencement Information

I36 S. 30 in force at 1.10.2005 by S.I. 2005/2455, art. 2(1), **Sch.** (with art. 3)

[F9]31 Consultation with National Lottery Commission

. . . . . .

Textual Amendments

F9 S. 31 repealed (1.10.2013) by The Public Bodies (Merger of the Gambling Commission and the National Lottery Commission) Order 2013 (S.I. 2013/2329), art. 1(2), **Sch. para. 13** (with art. 8, Sch. para. 43)

32 Consultation with Commissioners of Customs and Excise

(1) If in the course of the exercise of its functions the Gambling Commission becomes aware of a matter about which the Commissioners of Customs and Excise are likely to have an opinion, the Gambling Commission shall consult the Commissioners of Customs and Excise.

(2) The Gambling Commission shall comply with any direction of the Secretary of State (which may be general or specific) to consult the Commissioners of Customs and Excise.

Commencement Information

I37 S. 32 in force at 1.10.2005 by S.I. 2005/2455, art. 2(1), **Sch.** (with art. 3)

PART 3

GENERAL OFFENCES

Provision of facilities for gambling

33 Provision of facilities for gambling

(1) A person commits an offence if he provides facilities for gambling unless—
- (a) an exception provided for in subsection (2) or (3) applies, or
- (b) an exception provided for by any of the following provisions applies—
  - (i) sections 34 and 35,
  - (ii) sections 269 and 271 (clubs and miners' welfare institutes),
  - (iii) section 279 (premises with alcohol licence),
  - (iv) sections 289 to 292 (prize gaming),
  - (v) section 296 (private gaming and betting), and
  - (vi) section 298 (non-commercial gaming).

(2) Subsection (1) does not apply to any activity by a person if—
- (a) he holds an operating licence authorising the activity, and
- (b) the activity is carried on in accordance with the terms and conditions of the licence.

(3) Subsection (1) does not apply to any activity by a person if—
- (a) he acts in the course of a business carried on by a person who holds an operating licence authorising the activity, and

(b) the activity is carried on in accordance with the terms and conditions of the licence.

[F10(3A) Section 36(3A) limits the application of this section in cases involving the use in Great Britain of certain facilities for remote gambling.]

(4) A person guilty of an offence under this section shall be liable on summary conviction to—

(a) imprisonment for a term not exceeding 51 weeks,

(b) a fine not exceeding level 5 on the standard scale, or

(c) both.

(5) In the application of subsection (4) to Scotland the reference to 51 weeks shall have effect as a reference to six months.

Textual Amendments

F10 S. 33(3A) inserted (1.11.2014 for specified purposes) by Gambling (Licensing and Advertising) Act 2014 (c. 17), **ss. 1(1)**, 6(5); S.I. 2014/2444, art. 2(a) (as amended (29.9.2014) by S.I. 2014/2646, art. 2)

Modifications etc. (not altering text)

C1 S. 33 modified by SI 2006/3272 art. 8(1)(2) (as inserted (16.8.2007) by The Gambling Act 2005 (Commencement No. 6 and Transitional Provisions) (Amendment) (No. 2) Order 2007 (S.I. 2007/2169), arts. 1(1), **5**)

C2 S. 33 modified (temp.) (1.9.2007) by Gambling Act 2005 (Horserace Totalisator Board) Order 2007 (S.I. 2007/2102), arts. 1, **3**

Commencement Information

I38 S. 33 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

34 Exception: lotteries

Section 33 shall not apply to the provision of facilities for a lottery.

Commencement Information

I39 S. 34 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

35 Exception: gaming machines

Section 33 shall not apply to making a gaming machine available for use.

Commencement Information

I40 S. 35 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

36 Territorial application

(1) For the purposes of section 33 it is immaterial whether facilities are provided—

(a) wholly or partly by means of remote communication;

(b) subject to subsections (2) and (3), inside the United Kingdom, outside the United Kingdom, or partly inside and partly outside.

(2) Section 33 applies to the provision of facilities for non-remote gambling only if anything done in the course of the provision of the facilities is done in Great Britain.

[[F11](3) Section 33 applies to the provision of facilities for remote gambling only if—

(a) at least one piece of remote gambling equipment used in the provision of the facilities is situated in Great Britain, or

(b) no such equipment is situated in Great Britain but the facilities are used there.

(3A) In a case within subsection (3)(b), the person providing the facilities commits an offence under section 33 only if the person knows or should know that the facilities are being used, or are likely to be used, in Great Britain.**]**

(4) In this Act "remote gambling equipment" means, subject to subsection (5), electronic or other equipment used by or on behalf of a person providing facilities for remote gambling—

(a) to store information relating to a person's participation in the gambling,

(b) to present, to persons who are participating or may participate in the gambling, a virtual game, virtual race or other virtual event or process by reference to which the gambling is conducted,

(c) to determine all or part of a result or of the effect of a result, or

(d) to store information relating to a result.

(5) In this Act "remote gambling equipment" does not include equipment which—

(a) is used by a person to take advantage of remote gambling facilities provided by another person, and

(b) is not provided by that other person.

Textual Amendments

F11 S. 36(3)(3A) substituted for s. 36(3) (1.11.2014 for specified purposes) by Gambling (Licensing and Advertising) Act 2014 (c. 17), **ss. 1(2)**, 6(5); S.I. 2014/2444, art. 2(a) (as amended (29.9.2014) by S.I. 2014/2646, art. 2)

Commencement Information

I41 S. 36 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

Use of premises

37 Use of premises

(1) A person commits an offence if he uses premises, or causes or permits premises to be used, to—

(a) operate a casino,

(b) provide facilities for the playing of bingo,
(c) make a gaming machine available for use,
(d) provide other facilities for gaming, or
(e) provide facilities for betting (whether by making or accepting bets, by acting as a betting intermediary or by providing other facilities for the making or accepting of bets).

(2) Subsection (1) does not apply in relation to the use of premises by a person if the use is authorised by a premises licence held by him.

(3) Subsection (1) does not apply in relation to the use of premises by a person if he acts in the course of a business carried on by another person who holds a premises licence authorising the use.

(4) Subsection (1) does not apply in relation to the use of a track by a person for accepting bets if the use is authorised by a premises licence (whether or not held by him).

(5) Subsection (1) does not apply in relation to the use of a casino for the provision of facilities for bingo or betting in accordance with an authorisation under section 174(3).

(6) Subsection (1) does not apply in relation to the use of premises to provide facilities which are to be used only by persons who—
(a) are acting in the course of a business, or
(b) are not on the premises.

(7) Other exceptions to subsection (1) are provided in—
(a) sections 39 and 40,
(b) section 214 (temporary use notice),
(c) sections 247, 248 and 249 (gaming machines),
(d) sections 269, 271 and 273 (clubs and miners' welfare institutes),
(e) sections 279, 282 and 283 (premises with alcohol licence),
(f) section 287 (travelling fairs),
(g) sections 289 to 292 (prize gaming),
(h) section 296 (private gaming and betting), and
(i) section 298 (non-commercial gaming).

(8) A person guilty of an offence under this section shall be liable on summary conviction to—
(a) imprisonment for a term not exceeding 51 weeks,
(b) a fine not exceeding level 5 on the standard scale, or
(c) both.

(9) In the application of subsection (8) to Scotland the reference to 51 weeks shall have effect as a reference to six months.

Commencement Information

I42 S. 37 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

38 Power to amend section 37

(1) The Secretary of State may by order amend section 37(1) so as to—
- (a) add a gambling activity,
- (b) remove a gambling activity, or
- (c) vary the entry for a gambling activity.

(2) In subsection (1) "gambling activity" means an activity that is—
- (a) a kind of gambling, or
- (b) the provision of facilities for a kind of gambling.

(3) In particular, an order under subsection (1) may have the effect of applying section 37(1) to betting of the kind referred to in section 10(1) (subject to any specified exceptions).

(4) An order under subsection (1) may, in particular, make consequential amendment of—
- (a) section 150;
- (b) another provision of Part 8;
- (c) any provision of this Act, or of another enactment, that relates to Part 8.

Commencement Information

I43 S. 38 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

39 Exception: occasional use notice

(1) A person who accepts bets on a track, or who causes or permits premises to be used for the acceptance of bets, does not commit an offence under section 37 if—
- (a) a notice has been given under this section in respect of the track, and
- (b) the activity is carried on in accordance with the notice.

(2) A notice under this section (an "occasional use notice") in respect of a track may be given only by a person who is—
- (a) responsible for the administration of events on the track, or
- (b) an occupier of the track.

(3) An occasional use notice must—
- (a) be given in writing to the licensing authority for any area in which the track is wholly or partly situated, and
- (b) be copied to either—
  - (i) in England and Wales, the chief officer of police for any area in which the track is wholly or partly situated, or
  - (ii) in Scotland, the chief constable of the police force maintained for the police area comprising that area.

(4) An occasional use notice must specify a day on which it has effect.

(5) An occasional use notice may not be given in respect of a track for a day in a calendar year if eight occasional use notices have been given in respect of that track for days in that year.

(6) In this section—

(a) "chief officer of police" has the meaning given by section 101(1) of the Police Act 1996 (c. 16), and

(b) a reference to a chief officer's area is a reference to the area in respect of which he has responsibility under that Act.

(7) The Secretary of State may by order amend subsection (5) so as to substitute a different maximum number of occasional use notices for a calendar year.

(8) An order under subsection (7) increasing the maximum number of occasional use notices for a calendar year may also make provision prohibiting the giving of a temporary use notice in a calendar year in respect of premises if a specified number of occasional use notices have been given in respect of the premises in that year.

Commencement Information

I44 S. 39 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

40 Exception: football pools

(1) A person does not commit an offence under section 37 if he uses premises to do anything in accordance with an authorisation under section 93(3).

(2) The Secretary of State may make regulations disapplying subsection (1) to specified classes of premises.

Commencement Information

I45 S. 40 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

Miscellaneous offences

41 Gambling software

(1) A person commits an offence if in the course of a business he manufactures, supplies, installs or adapts gambling software unless he acts in accordance with an operating licence.

(2) In this Act "gambling software"—

(a) means computer software for use in connection with remote gambling, but

(b) does not include anything for use solely in connection with a gaming machine.

(3) A person does not supply or install gambling software for the purposes of subsection (1) by reason only of the facts that—

(a) he makes facilities for remote communication or non-remote communication available to another person, and

(b) the facilities are used by the other person to supply or install gambling software.

(4) A person guilty of an offence under this section shall be liable on summary conviction to—
- (a) imprisonment for a term not exceeding 51 weeks,
- (b) a fine not exceeding level 5 on the standard scale, or
- (c) both.

(5) In the application of subsection (4) to Scotland the reference to 51 weeks shall have effect as a reference to six months.

Commencement Information

I46 S. 41 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

42 Cheating

(1) A person commits an offence if he—
- (a) cheats at gambling, or
- (b) does anything for the purpose of enabling or assisting another person to cheat at gambling.

(2) For the purposes of subsection (1) it is immaterial whether a person who cheats—
- (a) improves his chances of winning anything, or
- (b) wins anything.

(3) Without prejudice to the generality of subsection (1) cheating at gambling may, in particular, consist of actual or attempted deception or interference in connection with—
- (a) the process by which gambling is conducted, or
- (b) a real or virtual game, race or other event or process to which gambling relates.

(4) A person guilty of an offence under this section shall be liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding two years, to a fine or to both, or
- (b) on summary conviction, to imprisonment for a term not exceeding 51 weeks, to a fine not exceeding the statutory maximum or to both.

(5) In the application of subsection (4) to Scotland the reference to 51 weeks shall have effect as a reference to six months.

(6) Section 17 of the Gaming Act 1845 (c. 109) (winning by cheating) shall cease to have effect.

Commencement Information

I47 S. 42 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

43 Chain-gift schemes

(1) A person commits an offence if he—

(a) invites another to join a chain-gift scheme, or

(b) knowingly participates in the promotion, administration or management of a chain-gift scheme.

(2) An arrangement is a "chain-gift" scheme if—

(a) in order to participate in the arrangement a person must make a payment to one or more other participants (a "joining fee"), and

(b) each person who participates in the arrangement—

(i) is required or invited to invite others to participate, and

(ii) is encouraged to believe that he will receive the joining fees, or part of the joining fees, of other participants, to an amount in excess of the joining fee paid by him.

(3) For the purposes of subsection (2)—

(a) "payment" means a payment of money or money's worth, but does not include the provision of goods or services, and

(b) it is immaterial whether a payment is made directly or through a person responsible for managing or administering the scheme.

(4) A person guilty of an offence under this section shall be liable on summary conviction to—

(a) imprisonment for a period not exceeding 51 weeks,

(b) a fine not exceeding level 5 on the standard scale, or

(c) both.

(5) In the application of subsection (4) to Scotland or Northern Ireland the reference to 51 weeks shall have effect as a reference to six months.

Commencement Information

I48 S. 43 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

44 Provision of unlawful facilities abroad

(1) A person commits an offence if he does anything in Great Britain, or uses remote gambling equipment situated in Great Britain, for the purpose of inviting or enabling a person in a prohibited territory to participate in remote gambling.

(2) In subsection (1) "prohibited territory" means a country or place designated for the purpose of this section by order made by the Secretary of State.

(3) An order under subsection (2) shall prescribe the mode of trial and maximum penalty for an offence under subsection (1).

Commencement Information

I49 S. 44 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

PART 4

PROTECTION OF CHILDREN AND YOUNG PERSONS

Interpretation

45 Meaning of "child" and "young person"

(1) In this Act "child" means an individual who is less than 16 years old.

(2) In this Act "young person" means an individual who is not a child but who is less than 18 years old.

Commencement Information

I50 S. 45 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

Principal offences

46 Invitation to gamble

(1) A person commits an offence if he invites, causes or permits a child or young person to gamble.

(2) But subsection (1) does not apply in relation to—

(a) participation in private or non-commercial gaming,
(b) participation in private or non-commercial betting,
(c) participation in a lottery,
(d) participation in football pools,
(e) the use of a Category D gaming machine,
(f) participation in equal chance gaming in accordance with a prize gaming permit,
(g) participation in equal chance gaming at a licensed family entertainment centre,
(h) participation in prize gaming at a non-licensed family entertainment centre, or
(i) participation in prize gaming at a travelling fair in accordance with section 292.

(3) In subsection (1) a reference to inviting a child or young person to gamble includes, in particular, a reference to intentionally—

(a) sending to a child or young person any document which advertises gambling, or

Status: *Point in time view as at 25/05/2018. This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Gambling Act 2005. (See end of Document for details)*

(b) bringing to the attention of a child or young person information about gambling with a view to encouraging the child or young person to gamble.

(4) If a document which is sent to a child or young person and which advertises gambling gives the name or contact details of a person to whom payment may be made or from whom information may be obtained, that person shall be treated as having committed the offence under subsection (1) unless he proves that the document was sent—

(a) without his consent, and

(b) without his authority.

(5) If information about gambling is brought to the attention of a child or young person and includes the name or contact details of a person to whom payment may be made or from whom information may be obtained, that person ("the advertiser") shall be treated as having committed the offence under subsection (1) unless he proves that the information was brought to the attention of the child or young person—

(a) without the advertiser's consent or authority, or

(b) as an incident of the information being brought to the attention of adults and without a view to encouraging the child or young person to gamble.

(6) In subsections (4) and (5) "contact details" means—

(a) an address or other location,

(b) a telephone number,

(c) an internet site, or

(d) an email address.

Commencement Information

I51 S. 46 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

47 Invitation to enter premises

(1) A person commits an offence if he invites or permits a child or young person to enter premises if—

(a) a casino premises licence has effect in respect of the premises, and

(b) the premises are being used in reliance on that licence when the child or young person is invited or permitted to enter.

(2) But subsection (1) does not apply where—

(a) a child or young person is permitted to enter a part of premises which are being used for a regional casino, and

(b) that part is not being used for the provision of facilities for gambling when the child or young person is permitted to enter.

(3) The Secretary of State may for the purposes of subsection (2) by regulations make provision for—

(a) distinguishing between one part of premises and another;

(b) determining when use is being made of a part of premises.

(4) A person commits an offence if he invites or permits a child or young person to enter premises other than a track if—

(a) a betting premises licence has effect in respect of the premises, and
(b) the premises are being used in reliance on that licence when the child or young person is invited or permitted to enter.

(5) A person commits an offence if he invites or permits a child or young person to enter premises if—
(a) an adult gaming centre premises licence has effect in respect of the premises, and
(b) the premises are being used in reliance on that licence when the child or young person is invited or permitted to enter.

(6) A person commits an offence if he invites or permits a child or young person to enter an area from which children and young persons are required to be excluded by virtue of section 182.

(7) A person commits an offence if he invites or permits a child or young person to enter part of premises if—
(a) the premises are a licensed family entertainment centre,
(b) a person entering that part of the premises has access to a Category C gaming machine, and
(c) at the time when the child or young person is permitted or invited to enter, a Category C gaming machine is being used or is available for use.

Commencement Information
I52 S. 47 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

48 Gambling

(1) A young person commits an offence if he gambles.

(2) But subsection (1) does not apply to—
(a) participation in private or non-commercial gaming,
(b) participation in private or non-commercial betting,
(c) participation in a lottery,
(d) participation in football pools,
(e) the use of a Category D gaming machine,
(f) participation in equal chance gaming in accordance with a prize gaming permit,
(g) participation in equal chance gaming at a licensed family entertainment centre,
(h) participation in prize gaming at a non-licensed family entertainment centre, or
(i) participation in prize gaming at a travelling fair in accordance with section 292.

Commencement Information
I53 S. 48 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

Status: *Point in time view as at 25/05/2018. This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Gambling Act 2005. (See end of Document for details)*

49 Entering premises

A young person commits an offence if he enters premises in circumstances where a person would commit an offence under section 47 if he invited or permitted the young person to enter.

Commencement Information

I54 S. 49 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

50 Provision of facilities for gambling

(1) A young person commits an offence if he provides facilities for gambling.

(2) But subsection (1) does not apply to the provision of facilities in connection with—

(a) private or non-commercial gaming,
(b) private or non-commercial betting,
(c) a lottery,
(d) football pools, or
(e) prize gaming at a travelling fair in accordance with section 292.

Commencement Information

I55 S. 50 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

Employment offences

51 Employment to provide facilities for gambling

(1) A person commits an offence if he employs a child or young person to provide facilities for gambling.

(2) But subsection (1) does not apply to the provision of facilities in connection with—

(a) private or non-commercial gaming,
(b) private or non-commercial betting,
(c) a lottery,
(d) football pools, or
(e) prize gaming at a travelling fair in accordance with section 292.

Commencement Information

I56 S. 51 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

52 Employment for lottery or football pools

A person commits an offence if he employs a child to provide facilities for gambling in connection with—

(a) a lottery (other than a lottery which forms part of the National Lottery), or

(b) football pools.

Commencement Information

I57 S. 52 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

53 Employment on bingo and club premises

A person commits an offence if he employs a child to perform any function on premises where, and at a time when—

(a) facilities are provided for the playing of bingo, or

(b) facilities for gambling are provided in accordance with a club gaming permit or a club machine permit.

Commencement Information

I58 S. 53 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

54 Employment on premises with gaming machines

(1) A person commits an offence if—

(a) he employs a child or young person to perform any function on premises where a Category A, B, C or D gaming machine is situated, and

(b) the child or young person is or may be required in the course of his employment to perform a function in connection with the gaming machine.

(2) A young person commits an offence if he is employed in contravention of subsection (1).

Modifications etc. (not altering text)

C3 S. 54(1)(a) modified (1.9.2007) by Categories of Gaming Machine Regulations 2007 (S.I. 2007/2158), regs. 1(b), **6(1)**

Commencement Information

I59 S. 54 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

55 Employment in casino, &c.

(1) A person commits an offence if he employs a child or young person to perform any function on premises in respect of which any of the following have effect—

Status: *Point in time view as at 25/05/2018. This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Gambling Act 2005. (See end of Document for details)*

(a) a casino premises licence,
(b) a betting premises licence, and
(c) an adult gaming centre premises licence.

(2) But subsection (1) does not apply—
(a) to employment at a time when no activity is being carried on in reliance on the premises licence, or
(b) to employment on a part of premises which are being used for a regional casino at a time when that part is not being used for the provision of facilities for gambling.

(3) The Secretary of State may for the purposes of subsection (2) by regulations make provision for—
(a) distinguishing between one part of premises and another;
(b) determining when use is being made of a part of premises.

(4) A young person commits an offence if he is employed in contravention of subsection (1).

Commencement Information
I60 S. 55 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

Miscellaneous offences

56 Invitation to participate in lottery

(1) A person commits an offence if he invites, causes or permits a child to participate in a lottery other than—
(a) an incidental [F12]... lottery that is exempt for the purposes of section 258 by virtue of Part 1 of Schedule 11,
(b) a private lottery (whether a private society lottery, a work lottery or a residents' lottery) that is exempt for the purposes of section 258 by virtue of Part 2 of Schedule 11, or
(c) a lottery which forms part of the National Lottery.

(2) Subsections (3) to (6) of section 46 shall have effect in relation to subsection (1) of this section as they have effect in relation to subsection (1) of that section; and for that purpose—
(a) references to a child or young person shall be treated as references only to a child, and
(b) references to gambling shall be treated as references to participation in a lottery.

Textual Amendments
F12 Word in s. 56(1)(a) omitted (6.4.2016) by virtue of The Legislative Reform (Exempt Lotteries) Order 2016 (S.I. 2016/124), arts. 1(1), **4(1)(a)**

Commencement Information

I61 S. 56 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

57 Invitation to participate in football pools

(1) A person commits an offence if he invites, causes or permits a child to participate in football pools.

(2) Subsections (3) to (6) of section 46 shall have effect in relation to subsection (1) of this section as they have effect in relation to subsection (1) of that section; and for that purpose—

(a) references to a child or young person shall be treated as references only to a child, and

(b) references to gambling shall be treated as references to participation in football pools.

Commencement Information

I62 S. 57 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

58 Return of stake

A person commits an offence if without reasonable excuse he fails to comply with a condition attached to an operating licence by virtue of section 83.

Commencement Information

I63 S. 58 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

59 Age limit for Category D gaming machines

(1) The Secretary of State may by order create an offence of inviting, causing or permitting a child or young person below a specified age to use a Category D gaming machine.

(2) An order under subsection (1) may, in particular—

(a) apply (with modifications) or include provision similar to section 46(3) to (6);

(b) make consequential amendments of this Act.

(3) Before making an order under subsection (1) the Secretary of State shall consult—

(a) the Commission,

(b) one or more persons who appear to the Secretary of State to represent the interests of persons carrying on gambling businesses, and

(c) one or more persons who appear to the Secretary of State to have knowledge about social problems relating to gambling.

(4) An order under subsection (1) may apply to a class of Category D gaming machine determined by reference to—

Status: *Point in time view as at 25/05/2018. This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Gambling Act 2005. (See end of Document for details)*

(a) the nature of the facilities for gambling which are made available on the machine,
(b) the nature or value of a prize offered by the machine,
(c) the manner in which the machine operates, or
(d) any other matter.

Commencement Information
I64 S. 59 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

General

60 Temporary use notice

(1) For the purposes of this Part—
(a) a temporary use notice in respect of the use of premises to carry on an activity shall be treated as if it were a premises licence authorising that activity, and
(b) an occasional use notice in respect of premises shall be treated as if it were a betting premises licence.

(2) Sections 47(6) and 182 shall apply in relation to a notice treated as a premises licence by virtue of subsection (1) above.

Commencement Information
I65 S. 60 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

61 Employment

(1) In this Part a reference to employing a person includes a reference to—
(a) employing or engaging the person whether or not under a contract of employment, and
(b) causing or permitting the person to be employed or engaged.

(2) Where a person commits an offence under this Part by employing a person or by being employed, he shall be treated as committing the offence on each day during any part of which the employment continues.

Commencement Information
I66 S. 61 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

62 Penalty

(1) A person guilty of an offence under this Part shall be liable on summary conviction to—

(a) imprisonment for a term not exceeding 51 weeks,
(b) a fine not exceeding level 5 on the standard scale, or
(c) both.

(2) But in relation to an offence committed by a young person subsection (1) shall have effect as if—
(a) paragraphs (a) and (c) were omitted, and
(b) in paragraph (b) the reference to level 5 were a reference to level 3.

(3) In the application of subsection (1) to Scotland the reference to 51 weeks shall have effect as a reference to six months.

Commencement Information
I67 S. 62 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

63 Reasonable belief about person's age

(1) Where a person is charged with an offence under this Part of doing anything in relation to an individual who is a child it is a defence for the person charged to prove that—
(a) he took all reasonable steps to determine the individual's age, and
(b) he reasonably believed that the individual was not a child.

(2) Where a person is charged with an offence under this Part of doing anything in relation to an individual who is a young person it is a defence for the person charged to prove that—
(a) he took all reasonable steps to determine the individual's age, and
(b) he reasonably believed that the individual was not a young person.

Commencement Information
I68 S. 63 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

64 Use of children in enforcement operations

(1) Nothing in this Part renders unlawful—
(a) anything done, in the performance of his functions, by a constable, an enforcement officer or an authorised person, or
(b) anything done by a child or young person at the request of a constable, enforcement officer or authorised person acting in the performance of his functions.

(2) Subsection (1) applies to an order under section 59 as to the provisions of this Part.

Commencement Information

I69 S. 64 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

PART 5

OPERATING LICENCES

Modifications etc. (not altering text)

C4 Pt. 5 modified (1.1.2007) by The Gambling Act 2005 (Commencement No. 6 and Transitional Provisions) Order 2006 (S.I. 2006/3272), art. 1(1), **Sch. 4 para. 72**

C5 Pt. 5 modified (1.1.2007) by The Gambling Act 2005 (Commencement No. 6 and Transitional Provisions) Order 2006 (S.I. 2006/3272), art. 1(1), **Sch. 4 para. 50**

C6 Pt. 5 modified by SI 2006/3272 art. 8(4)-(9) (as inserted (16.8.2007) by The Gambling Act 2005 (Commencement No. 6 and Transitional Provisions) (Amendment) (No. 2) Order 2007 (S.I. 2007/2169), arts. 1(1), **5**)

Introductory

65 Nature of licence

(1) The Commission may issue operating licences in accordance with the provisions of this Part.

(2) An operating licence is a licence which states that it authorises the licensee—

(a) to operate a casino (a "casino operating licence"),

(b) to provide facilities for playing bingo (a "bingo operating licence"),

(c) to provide facilities for betting other than pool betting (a "general betting operating licence"),

(d) to provide facilities for pool betting (a "pool betting operating licence"),

(e) to act as a betting intermediary (a "betting intermediary operating licence"),

(f) to make gaming machines available for use in an adult gaming centre (a "gaming machine general operating licence" for an adult gaming centre),

(g) to make gaming machines available for use in a family entertainment centre (a "gaming machine general operating licence" for a family entertainment centre),

(h) to manufacture, supply, install, adapt, maintain or repair a gaming machine, or a part of a gaming machine (a "gaming machine technical operating licence"),

(i) to manufacture, supply, install or adapt gambling software (a "gambling software operating licence"), or

(j) to promote a lottery (a "lottery operating licence").

(3) The issue of an operating licence does not affect the application of section 37.

(4) The Secretary of State may by order amend subsection (2) so as to—

(a) add a kind of operating licence,

(b) remove a kind of operating licence, or
(c) vary a kind of operating licence.

(5) An order under subsection (4) may, in particular, make consequential amendment of this Part (or a provision of this Act or another enactment that relates to this Part).

Commencement Information

I70 S. 65(1) (3)-(5) in force at 1.1.2007 for specified purposes by S.I. 2006/3272, art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

I71 S. 65(1)(3)-(5) in force at 1.9.2007 in so far as not already in force by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

I72 S. 65(2) in force at 1.10.2005 by S.I. 2005/2455, art. 2(1), **Sch.** (with art. 3)

66 Form of licence

(1) An operating licence must specify—
(a) the person to whom it is issued,
(b) the period during which it is to have effect, and
(c) any condition attached by the Commission under section 75 or 77.

(2) The Secretary of State may by regulations require the Commission to ensure that an operating licence—
(a) is issued in such form as the regulations may specify, and
(b) contains, in addition to the matters specified in subsection (1), such information as the regulations may specify (which may, in particular, include information about conditions attached to the licence by virtue of section 78).

Modifications etc. (not altering text)

C7 S. 66(1) applied (with modifications) (1.1.2007) by Gambling (Personal Licences) (Modification of Part 5 of the Gambling Act 2005) Regulations 2006 (S.I. 2006/3267), regs. 1(1), 2(2), **Sch.** Table 2

Commencement Information

I73 S. 66 in force at 1.1.2007 for specified purposes by S.I. 2006/3272, art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

I74 S. 66 in force at 1.9.2007 in so far as not already in force by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

67 Remote gambling

(1) An operating licence is a "remote operating licence" if it authorises activity to be carried on—
(a) in respect of remote gambling, or
(b) by means of remote communication.

(2) A remote operating licence may not also authorise activity which is neither—
(a) in respect of remote gambling, nor
(b) carried on by means of remote communication.

(3) An operating licence must state whether it is a remote operating licence or not.

[[F13](4) The power of the Commission to issue a remote operating licence to the holder of a licence suspended or revoked pursuant to a direction given under Schedule 27 to the Finance Act 2014 is subject to paragraph 7 of that Schedule (requirement for HMRC's consent).**]**

Textual Amendments

F13 S. 67(4) inserted (1.12.2014) by Finance Act 2014 (c. 26), s. 198(2)(c), **Sch. 28 para. 23** (with Sch. 29)

Modifications etc. (not altering text)

C8 S. 67 applied (with modifications) (1.1.2007) by Gambling (Personal Licences) (Modification of Part 5 of the Gambling Act 2005) Regulations 2006 (S.I. 2006/3267), regs. 1(1), 2(2), **Sch.** Table 2

C9 S. 67(2)(3) excluded (1.1.2007) by The Gambling Act 2005 (Commencement No. 6 and Transitional Provisions) Order 2006 (S.I. 2006/3272), art. 1(1), **Sch. 4 para. 69(5)**

Commencement Information

I75 S. 67 in force at 1.1.2007 for specified purposes by S.I. 2006/3272, art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

I76 S. 67 in force at 1.9.2007 in so far as not already in force by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

68 Combined licence

(1) An operating licence may be a licence of more than one of the kinds described in section 65(2).

(2) Subsection (1) is subject to the following provisions of this section.

(3) A casino operating licence authorises the holder, by virtue of this subsection, to provide facilities—

(a) for betting on the outcome of a virtual game, race, competition or other event or process, subject to any exclusion or restriction provided for by way of condition under section 75 or 77;

(b) for any game of chance other than bingo (and this paragraph does not prevent the combination of a casino operating licence and a bingo operating licence in reliance on subsection (1)).

(4) A general betting operating licence authorises the holder, by virtue of this subsection, to provide facilities for betting on the outcome of a virtual race, competition or other event or process other than a game of chance, subject to any exclusion or restriction provided for by way of condition under section 75 or 77.

(5) The following kinds of operating licence authorise the holder, by virtue of this subsection, to make one or more gaming machines within Categories A to D available for use (in addition to authorising the activities specified in accordance with section 65(2))—

(a) a non-remote casino operating licence,

(b) a non-remote bingo operating licence,

(c) a non-remote general betting operating licence, and

(d) a non-remote pool betting operating licence.

(6) No other kind of operating licence (other than a gaming machine general operating licence) may authorise the holder to make a gaming machine available for use.

Commencement Information

I77 S. 68 in force at 1.1.2007 for specified purposes by S.I. 2006/3272, art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

I78 S. 68 in force at 1.9.2007 in so far as not already in force by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

Issue

69 Application

(1) A person may apply to the Gambling Commission for an operating licence to be issued authorising him to provide facilities for gambling.

(2) An application must—

(a) specify the activities to be authorised by the licence,

(b) specify an address in the United Kingdom at which a document issued under this Act may be served on the applicant,

(c) be made in such form and manner as the Commission may direct,

(d) state whether the applicant has been convicted of a relevant offence,

(e) state whether the applicant has been convicted of any other offence,

(f) contain or be accompanied by such other information or documents as the Commission may direct, and

(g) be accompanied by the prescribed fee.

(3) An application may not be made by—

(a) a child or young person, or

(b) a group that includes a child or young person.

(4) The Secretary of State may by regulations—

(a) require an applicant for an operating licence to notify specified persons within a specified period (which may be wholly or partly before the application is made), and

(b) provide for the consequences of failure to comply with a requirement under paragraph (a) (which may, in particular, include provision for an application to be disregarded or for a licence to lapse).

(5) In subsection (2)(g) "prescribed" means prescribed by regulations made by the Secretary of State; and the regulations may, in particular, make different provision for—

(a) applications for the authorisation of different classes of activity, or

(b) different circumstances.

Modifications etc. (not altering text)

C10 S. 69 modified (24.4.2009 for specified purposes, 31.10.2009 in so far as not already in force) by The Armed Forces Act 2006 (Transitional Provisions etc) Order 2009 (S.I. 2009/1059), art. 1(3), **Sch. 1 para. 56**

C11 S. 69(2)(3) applied (with modifications) (1.1.2007) by Gambling (Personal Licences) (Modification of Part 5 of the Gambling Act 2005) Regulations 2006 (S.I. 2006/3267), regs. 1(1), 2(2), **Sch.** Table 2

Commencement Information

I79 S. 69 in force at 1.1.2007 for specified purposes by S.I. 2006/3272, art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

I80 S. 69 in force at 1.9.2007 in so far as not already in force by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

70 Consideration of application: general principles

(1) In considering an application under section 69 the Commission—

(a) shall have regard to the licensing objectives,

(b) shall form and have regard to an opinion of the applicant's suitability to carry on the licensed activities,

(c) shall consider the suitability of any gaming machine to be used in connection with the licensed activities, and

(d) may consider the suitability of any other equipment to be used in connection with the licensed activities (by reference, in particular, to any relevant provision of standards established under section 89).

(2) For the purpose of subsection (1)(b) the Commission may, in particular, have regard to—

(a) the integrity of the applicant or of a person relevant to the application;

(b) the competence of the applicant or of a person relevant to the application to carry on the licensed activities in a manner consistent with pursuit of the licensing objectives;

(c) the financial and other circumstances of the applicant or of a person relevant to the application (and, in particular, the resources likely to be available for the purpose of carrying on the licensed activities).

(3) In considering an application for a non-remote casino operating licence the Commission shall have regard, in addition to the matters specified in subsection (1), to the applicant's commitment to—

(a) protecting vulnerable persons from being harmed or exploited by gambling, and

(b) making assistance available to persons who are or may be affected by problems related to gambling.

(4) The statement maintained by the Commission under section 23 must specify the principles to be applied by the Commission in considering applications under section 69.

(5) The statement must, in particular, specify the kind of evidence to which the Commission will have regard when assessing integrity, competence and financial or other circumstances; and that evidence may include—

(a) interviews conducted by or on behalf of the Commission;
(b) references provided to the Commission at the request of the applicant;
(c) information or opinions provided to the Commission (whether or not on request) by other persons;
(d) information sought by the Commission as to solvency in general and financial reserves in particular;
(e) the completion of training (whether provided in accordance with arrangements made by the Commission or otherwise);
(f) the possession of qualifications (whether awarded in accordance with arrangements made by the Commission or otherwise).

(6) The statement must also, in particular, specify the kind of evidence to which the Commission will have regard in considering the suitability of a gaming machine or of other equipment; and that evidence may include—
(a) the result of a test carried out by a person at the request of the Commission;
(b) the opinion of any person.

(7) The statement may specify a class of applicant or other person in relation to whom the Commission will or may assume integrity for the purpose of subsection (2)(a).

(8) The statement may specify a class of gaming machine or other equipment in relation to which the Commission will or may assume suitability; and—
(a) a class may, in particular, be defined by reference to standards under section 89 or 96 or by reference to regulations under Part 10, and
(b) subsection (1)(c) and (d) shall not apply to the consideration of an application in so far as it specifies that a gaming machine or other equipment falling within a class specified under this subsection is to be used in connection with the licensed activities.

(9) For the purposes of this section—
(a) in relation to an application, a reference to the licensed activities is a reference to the activities which will be the licensed activities if the application is granted, and
(b) a person is relevant to an application if, in particular, he is likely to exercise a function in connection with, or to have an interest in, the licensed activities.

(10) For the purposes of this section "equipment" includes—
(a) a computer,
(b) a device for the playing of a casino game, and
(c) any other piece of equipment;
(but a gaming machine is not equipment for the purposes of this section).

Modifications etc. (not altering text)

C12 S. 70 applied (with modifications) (1.1.2007) by Gambling (Personal Licences) (Modification of Part 5 of the Gambling Act 2005) Regulations 2006 (S.I. 2006/3267), regs. 1(1), 2(2), **Sch.** Table 2

Commencement Information

I81 S. 70 in force at 1.1.2007 for specified purposes by S.I. 2006/3272, art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

I82 S. 70 in force at 1.9.2007 in so far as not already in force by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

71 Consideration of application: criminal record

(1) The Commission may refuse an application under section 69 if the applicant or a person relevant to the application has a conviction for a relevant offence.

(2) This section does not prejudice the generality of section 70.

(3) The reference in subsection (1) to a person who is relevant to an application shall be construed in accordance with section 70(9)(b).

Modifications etc. (not altering text)

C13 S. 71 applied (with modifications) (1.1.2007) by Gambling (Personal Licences) (Modification of Part 5 of the Gambling Act 2005) Regulations 2006 (S.I. 2006/3267), regs. 1(1), 2(2), **Sch.** Table 2

C14 S. 71 modified (24.4.2009 for specified purposes, 31.10.2009 in so far as not already in force) by The Armed Forces Act 2006 (Transitional Provisions etc) Order 2009 (S.I. 2009/1059), art. 1(3), **Sch. 1 para. 56**

Commencement Information

I83 S. 71 in force at 1.1.2007 for specified purposes by S.I. 2006/3272, art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

I84 S. 71 in force at 1.9.2007 in so far as not already in force by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

72 Consideration of application: demand

In determining whether to grant an operating licence the Commission may not have regard to—

(a) the area in Great Britain within which it is proposed to provide facilities, or

(b) the expected demand for facilities which it is proposed to provide.

Modifications etc. (not altering text)

C15 S. 72 excluded (1.1.2007) by Gambling (Personal Licences) (Modification of Part 5 of the Gambling Act 2005) Regulations 2006 (S.I. 2006/3267), regs. 1(1), 2(1), **Sch.** Table 1

Commencement Information

I85 S. 72 in force at 1.1.2007 for specified purposes by S.I. 2006/3272, art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

I86 S. 72 in force at 1.9.2007 in so far as not already in force by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

73 Procedure

(1) For the purpose of considering an application under section 69 the Commission may—

(a) require the applicant to provide information;

(b) consult, and have regard to information provided by or an opinion stated by, any person.

(2) In subsection (1) "information" and "opinion" mean information or an opinion about—
(a) the applicant,
(b) a person relevant to the application, or
(c) the licensed activities.

(3) In particular, the Commission may require the production of an enhanced criminal record certificate under **[**[F14]section 113B**]** of the Police Act 1997 (c. 50) relating to—
(a) the applicant, or
(b) a person relevant to the application.

[[F15]or the production of up-date information (within the meaning given by section 116A of that Act) in relation to such a certificate,**]**

(4) The statement maintained by the Commission under section 23 must, in particular, specify the Commission's practice in relation to—
(a) the delegation of functions in relation to applications,
(b) the holding of oral hearings of applications, and
(c) evidence required or accepted in connection with applications.

(5) The Commission may disregard an irregularity or deficiency in or in relation to an application, other than a failure to pay the fee required by section 69(2)(g).

(6) For the purposes of this section a reference to the licensed activities or to a person relevant to an application shall be construed in accordance with section 70(9).

Textual Amendments

F14 Words in s. 73(3) substituted (17.6.2013 for E.W.) by Protection of Freedoms Act 2012 (c. 9), s. 120, **Sch. 9 para. 119(a)** (with s. 97); S.I. 2013/1180, art. 2(e)(v)

F15 Words in s. 73(3) inserted (17.6.2013) by Protection of Freedoms Act 2012 (c. 9), s. 120, **Sch. 9 para. 119(b)** (with s. 97); S.I. 2013/1180, art. 2(e)(v)

Modifications etc. (not altering text)

C16 S. 73 applied (with modifications) (1.1.2007) by Gambling (Personal Licences) (Modification of Part 5 of the Gambling Act 2005) Regulations 2006 (S.I. 2006/3267), regs. 1(1), 2(2), **Sch.** Table 2

Commencement Information

I87 S. 73 in force at 1.1.2007 for specified purposes by S.I. 2006/3272, art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

I88 S. 73 in force at 1.9.2007 in so far as not already in force by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

74 Determination of application

(1) On considering an application under section 69 the Commission shall—
(a) grant it,
(b) reject it, or

(c) grant it in respect of one or more of the activities specified in accordance with section 69(2)(a) and reject it in respect of the others.

(2) Where the Commission grants an application in whole or in part it shall as soon as is reasonably practicable—
(a) notify the applicant of the grant, and
(b) issue an operating licence to the applicant.

(3) Where the Commission rejects an application in whole or in part it shall as soon as is reasonably practicable notify the applicant of—
(a) the rejection, and
(b) the reasons for it.

Modifications etc. (not altering text)

C17 S. 74(2) excluded (1.1.2007) by The Gambling Act 2005 (Commencement No. 6 and Transitional Provisions) Order 2006 (S.I. 2006/3272), art. 1(1), **Sch. 4 para. 42(1)**

Commencement Information

I89 S. 74 in force at 1.1.2007 for specified purposes by S.I. 2006/3272, art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

I90 S. 74 in force at 1.9.2007 in so far as not already in force by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

Conditions

75 General conditions imposed by Commission

(1) The Commission may specify conditions to be attached to—
(a) each operating licence, or
(b) each operating licence falling within a specified class.

(2) For the purposes of subsection (1)(b) a class may be defined wholly or partly by reference to—
(a) the nature of the licensed activities;
(b) the circumstances in which the licensed activities are carried on;
(c) the nature or circumstances of the licensee or of another person involved or likely to be involved in the conduct of the licensed activities.

(3) Where the Commission issues an operating licence it shall attach to the licence any condition specified under subsection (1) as a condition to be attached to operating licences of a class within which the licence falls.

Modifications etc. (not altering text)

C18 S. 75(2) applied (with modifications) (1.1.2007) by Gambling (Personal Licences) (Modification of Part 5 of the Gambling Act 2005) Regulations 2006 (S.I. 2006/3267), regs. 1(1), 2(2), **Sch.** Table 2

Commencement Information

I91 S. 75(1)(2) in force at 1.10.2005 by S.I. 2005/2455, art. 2(1), **Sch.** (with art. 3)

I92 S. 75(3) in force at 1.1.2007 by S.I. 2006/3272, art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

76 General conditions: procedure

(1) The Commission may amend or revoke a condition specified under section 75; and a reference in this section to the specification of a condition includes a reference to the amendment or revocation of a condition.

(2) Before specifying a condition the Commission shall consult—

(a) one or more persons who in the Commission's opinion represent the interests of operating licensees who may be affected by the condition, and

(b) such of the persons specified in section 23(5) as the Commission thinks appropriate (if any).

(3) The Commission shall publish any specification as soon as is reasonably practicable.

(4) Where the Commission proposes to specify a condition—

(a) at least three months before making the specification the Commission shall give notice of it to the holder of each licence which—

(i) has effect at that time, and

(ii) is within a class affected by the specification,

(b) if the Commission issues, after that time but before the specification is made, an operating licence of a class affected by the specification, the Commission shall give the licensee notice of the proposed specification, and

(c) on the making of the specification an existing licence shall by virtue of this paragraph be subject to the condition specified.

(5) If the Commission thinks it necessary by reason of urgency to make a specification without giving the notice required by subsection (4)(a)—

(a) the Commission shall give as much notice as it thinks possible in the circumstances to the persons mentioned in that provision,

(b) subsection (4)(b) shall have effect after the time when notice is given under paragraph (a) above, and

(c) subsection (4)(c) shall have effect.

(6) Subsection (4)(c), in its application to the amendment or revocation of a condition (by virtue of subsection (1)), shall be treated as—

(a) making existing licences subject to the condition as amended, or

(b) relieving existing licences from the condition revoked.

Commencement Information

I93 S. 76(1)-(3) in force at 1.10.2005 by S.I. 2005/2455, art. 2(1), **Sch.** (with art. 3)

I94 S. 76(4)-(6) in force at 1.1.2007 by S.I. 2006/3272, art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

77 Individual condition imposed by Commission

Where the Commission issues an operating licence it may attach a condition to the licence.

Commencement Information

I95 S. 77 in force at 1.1.2007 by S.I. 2006/3272, art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

78 Condition imposed by Secretary of State

(1) The Secretary of State may by regulations provide for a specified condition to be attached to operating licences falling within a specified description.

(2) Transitional provision of regulations under this section (made by virtue of section 355(1)(c)) may, in particular, apply a condition (with or without modification) to licences issued before the regulations are made (or come into force).

Modifications etc. (not altering text)

C19 S. 78(2) modified (1.1.2007) by The Gambling Act 2005 (Commencement No. 6 and Transitional Provisions) Order 2006 (S.I. 2006/3272), art. 1(1), Sch. 4 para. 42(5), **(6)**

Commencement Information

I96 S. 78 in force at 1.1.2007 by S.I. 2006/3272, art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

79 Scope of powers to attach conditions

(1) Without prejudice to the generality of the powers conferred by sections 75, 77 and 78, a condition attached under any of those sections may, in particular, do any of the things specified in this section.

(2) A condition may have the effect of restricting the activities that may be carried on in reliance on the licence by reference to—

(a) the nature of the activities,

(b) the circumstances in which they are carried on, or

(c) their extent.

(3) A condition may make provision wholly or partly by reference to—

(a) the nature of the licensed activities;

(b) the circumstances in which the licensed activities are carried on;

(c) the nature or circumstances of the licensee or of another person involved or likely to be involved in the conduct of the licensed activities.

(4) In regulating the licensed activities a condition may make provision about—

(a) the facilities that may or must be provided in connection with the licensed activities;

(b) the manner in which facilities are provided;

(c) the number of persons that may or must be employed in the provision of facilities;

(d) the financial resources available for particular purposes to the person providing facilities;

(e) any other matter.

(5) A condition may relate to the financial circumstances of the licensee or of another person involved or likely to be involved in the conduct of the licensed activities; in particular, a condition may make provision about the maintenance of reserves in respect of potential liabilities.

(6) A condition of a remote operating licence may restrict the methods of communication that may be used in the course of the licensed activities.

(7) A condition may make provision about how facilities for gambling are advertised or described.

(8) A condition may make provision about the provision of assistance to persons who are or may be affected by problems related to gambling.

(9) A condition may make provision about—
- (a) establishing the identity of users of facilities;
- (b) recording the identity of users of facilities;
- (c) restricting facilities to persons registered in respect of the facilities in advance.

Modifications etc. (not altering text)

C20 S. 79 applied (with modifications) (1.1.2007) by Gambling (Personal Licences) (Modification of Part 5 of the Gambling Act 2005) Regulations 2006 (S.I. 2006/3267), regs. 1(1), 2(2), **Sch.** Table 2

Commencement Information

I97 S. 79 in force at 1.10.2005 for specified purposes by S.I. 2005/2455, art. 2(1), **Sch.** (with art. 3)

I98 S. 79 in force at 1.1.2007 in so far as not already in force by S.I. 2006/3272, art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

80 Requirement for personal licence

(1) The Commission shall use its powers under sections 75 and 77 to ensure that in respect of each operating licence at least one person—
- (a) occupies a specified management office in or in respect of the licensee or in connection with the licensed activities, and
- (b) holds a personal licence authorising the performance of the functions of the office.

(2) A condition under either of those sections may impose requirements which relate to a management office and are in addition to any required by subsection (1).

(3) A condition attached to an operating licence by virtue of section 75, 77 or 78 may, in particular, provide that if a specified management office is held in or in respect of the licensee or in connection with a licensed activity (whether or not in pursuance of another condition)—
- (a) it must be held by an individual who holds a personal licence authorising the performance of the functions of the office, and
- (b) anything done in the performance of the functions of the office must be done in accordance with the terms and conditions of the personal licence.

(4) A condition attached to an operating licence by virtue of section 75, 77 or 78 may, in particular, provide that if a specified operational function is performed in connection with a licensed activity it must be performed—

(a) by an individual who holds a personal licence authorising performance of the function, and

(b) in accordance with the terms and conditions of the personal licence.

(5) In this section "management office" in relation to a licensee means—

(a) if the licensee is a company, the office of director,

(b) if the licensee is a partnership (including a limited liability partnership), the office of partner,

(c) if the licensee is an unincorporated association, any office in the association, and

(d) in any case, any position the occupier of which is required, by the terms of his appointment, to take or share responsibility for—

(i) the conduct of a person who performs an operational function in connection with a licensed activity, or

(ii) facilitating or ensuring compliance with terms or conditions of the operating licence.

(6) In this section "operational function" means—

(a) any function which enables the person exercising it to influence the outcome of gambling,

(b) receiving or paying money in connection with gambling, and

(c) manufacturing, supplying, installing, maintaining or repairing a gaming machine.

(7) Provision by virtue of subsection (1) may be general or may relate only to specified—

(a) kinds of operating licence,

(b) cases, or

(c) circumstances.

(8) The Secretary of State may by order amend the definition of "management office" or "operational function" for the purposes of this section.

(9) In relation to a bingo operating licence issued to a members' club, a commercial club or a miners' welfare institute—

(a) subsection (1) shall not apply, and

(b) a condition attached by virtue of section 75, 77 or 78 may not—

(i) require that a person hold a personal licence, or

(ii) operate by reference to whether a person holds a personal licence.

Modifications etc. (not altering text)

C21 S. 80 excluded (1.1.2007) by Gambling (Personal Licences) (Modification of Part 5 of the Gambling Act 2005) Regulations 2006 (S.I. 2006/3267), regs. 1(1), 2(1), **Sch.** Table 1

Commencement Information

I99 S. 80 in force at 1.10.2005 for specified purposes by S.I. 2005/2455, art. 2(1), **Sch.** (with art. 3)

I100 S. 80 in force at 1.1.2007 in so far as not already in force by S.I. 2006/3272, art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4) (as amended by S.I. 2006/3361, art. 2(2))

81 Credit and inducements

(1) A condition attached to an operating licence by virtue of section 75, 77 or 78 may, in particular, restrict or otherwise make provision about—

(a) the giving of credit in connection with the licensed activities;

(b) the making of offers designed to induce persons to participate, or to increase their participation, in the licensed activities;

(c) participation in arrangements for inducing, permitting or assisting persons to gamble.

(2) A non-remote casino operating licence or a non-remote bingo operating licence shall by virtue of this subsection be subject to the condition that the licensee may not—

(a) give credit in connection with gambling, or

(b) participate in, arrange, permit or knowingly facilitate the giving of credit in connection with gambling.

(3) But the condition in subsection (2) shall not prevent the licensee from permitting the installation and use on the premises of a machine enabling cash to be obtained on credit from a person (the "credit provider") provided that—

(a) the licensee has no other commercial connection with the credit provider in relation to gambling,

(b) the licensee neither makes nor receives any payment or reward (whether by way of commission, rent or otherwise) in connection with the machine, and

(c) any conditions about the nature, location or use of the machine attached by virtue of section 75, 77 or 78 are complied with.

(4) In this section "credit" includes—

(a) any form of financial accommodation, and

(b) in particular, the acceptance by way of payment of a fee, charge or stake of anything other than—

(i) cash,

(ii) a cheque which is not post-dated and for which full value is given, or

(iii) a debit card payment which is not post-dated and for which full value is given.

(5) In subsection (4)(b)(iii) "debit card payment" means a payment—

(a) debited against a person's banking account, and

(b) made by means of a card which is not a credit-token within the meaning of section 14 of the Consumer Credit Act 1974 (c. 39).

Modifications etc. (not altering text)

C22 S. 81 excluded (1.1.2007) by Gambling (Personal Licences) (Modification of Part 5 of the Gambling Act 2005) Regulations 2006 (S.I. 2006/3267), regs. 1(1), 2(1), **Sch.** Table 1

Commencement Information

I101 S. 81 in force at 1.1.2007 by S.I. 2006/3272, art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

82 Compliance with code of practice

(1) An operating licence shall by virtue of this section be subject to the condition that the licensee ensures compliance with any relevant social responsibility provision of a code of practice issued under section 24.

(2) In subsection (1)—

(a) the reference to a licensee includes a reference to anyone employed or engaged by a licensee to perform an operational function within the meaning of section 80, and

(b) the reference to a social responsibility provision of a code is a reference to a provision identified by a code as being included in pursuance of section 24(2).

(3) This section does not prevent compliance with a provision of a code, other than a social responsibility provision, from being made the subject of a condition under section 75, 77 or 78.

Modifications etc. (not altering text)

C23 S. 82 applied (with modifications) (1.1.2007) by Gambling (Personal Licences) (Modification of Part 5 of the Gambling Act 2005) Regulations 2006 (S.I. 2006/3267), regs. 1(1), 2(2), **Sch.** Table 2

Commencement Information

I102 S. 82 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

83 Return of stakes to children

(1) An operating licence shall by virtue of this section be subject to the condition that if the licensee becomes aware that a child or young person is using or has used facilities for gambling provided in reliance on the licence, the licensee—

(a) must return any money paid in respect of the use of those facilities (whether by way of fee, stake or otherwise) by the child or young person as soon as is reasonably practicable, and

(b) may not give a prize to the child or young person.

(2) But subsection (1) does not apply to—

(a) the use of a Category D gaming machine, or

(b) participation in equal chance gaming at a licensed family entertainment centre.

(3) The condition in subsection (1)—

(a) shall have effect despite any contract or other agreement and despite any rule of law, and

(b) shall not enable a licensee to demand repayment of, and shall not require a child or young person to return, a prize paid before the licensee becomes aware that the participant is a child or young person.

(4) In this section—

(a) a reference to a licensee includes a reference to anyone employed or engaged by a licensee to perform an operational function within the meaning of section 80, and

(b) in relation to participation in a lottery or football pools a reference to a child or young person shall be treated as a reference only to a child.

(5) In this section "prize" includes both a prize provided by a person organising gambling and winnings of money staked.

Modifications etc. (not altering text)

C24 S. 83 applied (with modifications) (1.1.2007) by Gambling (Personal Licences) (Modification of Part 5 of the Gambling Act 2005) Regulations 2006 (S.I. 2006/3267), regs. 1(1), 2(2), **Sch.** Table 2

Commencement Information

I103 S. 83 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

84 Premises

(1) An operating licence—

(a) may not include a condition (whether attached by virtue of section 75, 77 or 78)—

(i) requiring that the licensed activities be carried on at a specified place or class of place,

(ii) preventing the licensed activities from being carried on at a specified place or class of place, or

(iii) specifying premises on which the licensed activities may be carried on, but

(b) may include a condition about—

(i) the number of sets of premises on which the licensed activities may be carried on;

(ii) the number of persons for whom facilities may be provided on any premises where the licensed activities are carried on.

(2) An operating licence of any kind may authorise activities carried on in more than one place.

Modifications etc. (not altering text)

C25 S. 84 modified (1.1.2007) by The Gambling Act 2005 (Commencement No. 6 and Transitional Provisions) Order 2006 (S.I. 2006/3272), art. 1(1), **Sch. 4 para. 43**

C26 S. 84(1) applied (with modifications) (1.1.2007) by Gambling (Personal Licences) (Modification of Part 5 of the Gambling Act 2005) Regulations 2006 (S.I. 2006/3267), regs. 1(1), 2(2), **Sch.** Table 2

Commencement Information

I104 S. 84 in force at 1.1.2007 by S.I. 2006/3272, art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

85 Equipment

(1) A condition attached to an operating licence by virtue of section 75, 77 or 78 may make provision about equipment used in connection with the licensed activities.

(2) In particular, a condition attached by virtue of this section may—

(a) make provision about the number of pieces of equipment, other than equipment for playing bingo, that may be used to provide facilities for gambling;

(b) make provision about the specification of equipment used to provide facilities for gambling.

(3) For the purposes of this section "equipment" includes—

(a) a computer,

(b) a device for the playing of a casino game, and

(c) any other piece of equipment.

(4) But a gaming machine is not equipment for the purposes of this section.

Modifications etc. (not altering text)

C27 Ss. 85-87 excluded (1.1.2007) by Gambling (Personal Licences) (Modification of Part 5 of the Gambling Act 2005) Regulations 2006 (S.I. 2006/3267), regs. 1(1), 2(1), **Sch.** Table 1

Commencement Information

I105 S. 85 in force at 1.1.2007 by S.I. 2006/3272, art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

86 Gaming machines

(1) An operating licence may not include a condition (whether attached by virtue of section 75, 77 or 78)—

(a) about the number or categories of gaming machine that may be made available for use in accordance with the licence,

(b) that contradicts a provision of regulations under section 236, 240 or 241, or

(c) of a kind prohibited by regulations under any of those sections.

(2) An operating licence may be subject to a condition (whether imposed by virtue of section 75, 77 or 78) that a specified gaming machine may not be made available for use in reliance on the licence if the Commission has notified the licensee in writing that the manufacture, supply, installation, adaptation, maintenance or repair of the machine—

(a) was not carried out in reliance on a gaming machine technical operating licence, or

(b) did not comply with standards established under or by virtue of section 96.

Modifications etc. (not altering text)

C27 Ss. 85-87 excluded (1.1.2007) by Gambling (Personal Licences) (Modification of Part 5 of the Gambling Act 2005) Regulations 2006 (S.I. 2006/3267), regs. 1(1), 2(1), **Sch.** Table 1

Commencement Information

I106 S. 86 in force at 1.1.2007 by S.I. 2006/3272, art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

87 Membership

An operating licence may not be subject to a condition (whether by virtue of section 75, 77 or 78)—

(a) requiring facilities to be provided by, or used in the course of the activities of, a club or other body with membership, or

(b) restricting the provision or use of facilities wholly or partly by reference to membership of a club or other body.

Modifications etc. (not altering text)

C27 Ss. 85-87 excluded (1.1.2007) by Gambling (Personal Licences) (Modification of Part 5 of the Gambling Act 2005) Regulations 2006 (S.I. 2006/3267), regs. 1(1), 2(1), **Sch.** Table 1

Commencement Information

I107 S. 87 in force at 1.1.2007 by S.I. 2006/3272, art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

88 Information

(1) A condition attached to an operating licence by virtue of section 75 or 78 may require the provision of information of a specified kind to—

(a) the Commission, or

(b) another specified person or class of person.

(2) A condition attached by virtue of this section may, in particular—

(a) relate to information about the use made of facilities provided in accordance with the operating licence;

(b) require a person to provide any information that he suspects may—

(i) relate to the commission of an offence under this Act,

(ii) relate to a breach of a rule applied by a sporting or other body, or

(iii) lead to the making of an order under section 336.

Modifications etc. (not altering text)

C28 S. 88 applied (with modifications) (1.1.2007) by Gambling (Personal Licences) (Modification of Part 5 of the Gambling Act 2005) Regulations 2006 (S.I. 2006/3267), regs. 1(1), 2(2), **Sch.** Table 2

Commencement Information

I108 S. 88 in force at 1.1.2007 by S.I. 2006/3272, art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

Rules for particular kinds of licence

89 Remote operating licence

(1) This section applies to a remote operating licence.

[F16](2) . . . . . .

[F16](3) . . . . . .

(4) The Commission may establish, or provide for the establishment of, standards in respect of—

(a) a system used for the generation of results in a virtual game, virtual race or other virtual event or process used in the course of remote gambling;

(b) any other aspect of the process of remote gambling.

(5) In particular, the Commission may—

(a) provide for the enforcement of standards by the attachment of conditions under section 75 or 77;

(b) make arrangements with any person for the establishment of standards;

(c) make arrangements with any person for the administration of tests of compliance with standards;

(d) for the purpose of considering whether a condition under section section 75 or 77 has been complied with, require the licensee under a remote licence—

(i) to submit to a test in accordance with arrangements made under paragraph (c) above, and

(ii) to produce specified evidence of the result of the test;

(e) for the purpose of considering whether to grant an application under this Part, require a licensee under a remote licence or an applicant for a remote licence—

(i) to submit to a test in accordance with arrangements made under paragraph (c) above, and

(ii) to produce specified evidence of the result of the test.

(6) Standards established under subsection (5) may, in particular, be expressed—

(a) by reference to the opinion of a specified person or class of persons;

(b) by reference to a specified process or piece of equipment.

(7) This section is without prejudice to the generality of sections 75, 77 and 78.

Textual Amendments

F16 S. 89(2)(3) repealed (1.9.2007) by Gambling Act 2005 (Repeal) (Remote Operating Licence and Credit) Regulations 2007 (S.I. 2007/2321), regs. 1, **2(a)**

Modifications etc. (not altering text)

C29 Ss. 89-99 excluded (1.1.2007) by Gambling (Personal Licences) (Modification of Part 5 of the Gambling Act 2005) Regulations 2006 (S.I. 2006/3267), regs. 1(1), 2(1), **Sch.** Table 1

Commencement Information

I109 S. 89(1) (4)-(7) in force at 1.1.2007 by S.I. 2006/3272, art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

90 Casino operating licence

(1) A casino operating licence may be subject to a condition (whether imposed by virtue of section 75, 77 or 78) restricting the class of casino game that may be made available.

(2) A casino operating licence may be subject to a condition imposed by virtue of section 75 or 77 specifying rules for the playing of—

(a) a casino game;

(b) another game of chance.

Modifications etc. (not altering text)

C29 Ss. 89-99 excluded (1.1.2007) by Gambling (Personal Licences) (Modification of Part 5 of the Gambling Act 2005) Regulations 2006 (S.I. 2006/3267), regs. 1(1), 2(1), **Sch.** Table 1

Commencement Information

I110 S. 90 in force at 1.1.2007 by S.I. 2006/3272, art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

91 Bingo operating licence

(1) Regulations under section 78 may provide for the attachment to a bingo operating licence of a condition—

(a) limiting amounts that may be staked;

(b) limiting the amount that may be charged by way of participation fee;

(c) limiting the amount or value of a prize or class of prize;

(d) requiring that at least a specified proportion of stakes be paid out by way of prizes;

(e) imposing requirements that are specific to games of bingo played on more than one set of premises (whether facilities for the game are provided in accordance with one bingo operating licence or more than one).

(2) But subject to subsection (1) a bingo operating licence may not be subject to a condition—

(a) limiting the amount that may be accepted or charged by way of stakes,

(b) limiting the amount that may be charged by way of participation fee,

(c) restricting the nature, amount or value of prizes,

(d) controlling the proportion of stakes paid out by way of prizes,

(e) preventing the provision of prizes funded other than out of stakes,

(f) preventing or limiting an arrangement whereby the fact that a prize is not won or claimed in one game of bingo increases the value of the prizes available in another game of bingo,

(g) requiring a game of bingo to be played entirely on one set of premises, or

(h) imposing requirements that are specific to games of bingo played on more than one set of premises (whether facilities for the game are provided in accordance with one bingo operating licence or more than one).

(3) Regulations by virtue of subsection (1)(b) may, in particular, make different provision for different kinds of fee.

(4) Provision made by virtue of subsection (1)(c) may define a class of prize—

(a) by reference to a game or a number of games,

(b) by reference to a period of time, or

(c) in any other way.

Modifications etc. (not altering text)

C29 Ss. 89-99 excluded (1.1.2007) by Gambling (Personal Licences) (Modification of Part 5 of the Gambling Act 2005) Regulations 2006 (S.I. 2006/3267), regs. 1(1), 2(1), **Sch.** Table 1

Commencement Information

I111 S. 91 in force at 1.1.2007 by S.I. 2006/3272, art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

92 General betting operating licence

(1) A general betting operating licence shall, by virtue of this section, be subject to the condition that bets may be accepted on behalf of the licensee only by—

(a) the licensee,

(b) a person employed by the licensee under a written contract of employment, or

(c) the holder of another general betting operating licence.

(2) A general betting operating licence shall, by virtue of this subsection, contain an implied term permitting the use of postal services for the making of bets.

(3) The effect of the term implied by subsection (2) may not be disapplied or restricted by a condition attached under section 75, 77 or 78.

Modifications etc. (not altering text)

C29 Ss. 89-99 excluded (1.1.2007) by Gambling (Personal Licences) (Modification of Part 5 of the Gambling Act 2005) Regulations 2006 (S.I. 2006/3267), regs. 1(1), 2(1), **Sch.** Table 1

Commencement Information

I112 S. 92 in force at 1.1.2007 by S.I. 2006/3272, art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

93 Pool betting operating licence

(1) A pool betting operating licence shall, by virtue of this section, be subject to the condition that bets may be accepted on behalf of the licensee only—

(a) by the licensee,

(b) by a person employed by the licensee under a written contract of employment,

(c) by the holder of another pool betting operating licence, or

(d) in accordance with subsection (2) or (3).

(2) A bet is accepted by a person ("the agent") on behalf of a licensee in accordance with this subsection if—

(a) the agent is authorised by the licensee in writing to accept bets on behalf of the licensee,

(b) the agent is an adult,

(c) at the time of accepting the bet the agent is on a track,

(d) the bet is accepted in reliance on an occasional use notice, and

(e) the bet is in connection with a horse-race or a dog race.

(3) The holder of a pool betting operating licence that authorises (whether expressly or impliedly) the provision of facilities for football pools may in writing authorise an adult or young person—

(a) to make documents or other facilities available in connection with the licensed activities;

(b) to receive entries on behalf of the licensee;

(c) to receive payments on behalf of the licensee;

(d) to make payments of winnings on behalf of the licensee.

(4) An authorisation under subsection (3)—

(a) shall be treated for the purposes of section 33 as if it were a pool betting operating licence, but

(b) shall have no effect in relation to any activity, entry or payment that relates partly to a football pool and partly to another form of gambling.

(5) An authorisation under subsection (3) may be issued on terms and conditions which may, in particular, include—

(a) provision for payment by the person issuing the authorisation;

(b) provision for commission.

(6) A condition of a pool betting operating licence (whether attached by virtue of section 75, 77 or 78) may make provision regulating or restricting the activities of persons authorised under subsection (3).

(7) A pool betting operating licence shall, by virtue of this subsection, contain an implied term permitting the use of postal services for the making of bets.

(8) The effect of the term implied by subsection (7) may not be disapplied or restricted by a condition attached under section 75, 77 or 78.

(9) The Secretary of State may by order—

(a) amend or repeal subsection (2)(e);

(b) amend subsection (3) so as to permit authorisation in relation to betting of a specified kind that relates to a sport but is not a football pool.

Modifications etc. (not altering text)

C29 Ss. 89-99 excluded (1.1.2007) by Gambling (Personal Licences) (Modification of Part 5 of the Gambling Act 2005) Regulations 2006 (S.I. 2006/3267), regs. 1(1), 2(1), **Sch.** Table 1

Commencement Information

I113 S. 93 in force at 1.1.2007 by S.I. 2006/3272, art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

94 Horse-race pool betting operating licence

(1) This section applies to a pool betting operating licence which provides for this section to apply.

(2) The holder of a licence to which this section applies may in writing authorise a person to provide facilities for horse-race pool betting.

(3) An authorisation under subsection (2) shall be treated for the purposes of section 33 as if it were a pool betting operating licence authorising the provision of facilities for horse-race pool betting.

(4) An authorisation under subsection (2) may be issued on terms and conditions which may, in particular, include—

(a) provision for payment to or by the person issuing the authorisation;

(b) provision for agency or commission.

(5) A condition of a pool betting operating licence to which this section applies (whether attached by virtue of section 75, 77 or 78) may make provision regulating or restricting the activities of persons authorised under subsection (2).

(6) A pool betting operating licence to which this section applies shall, by virtue of this subsection, contain an implied term permitting the use of postal services for the making of bets.

(7) The effect of the term implied by subsection (6) may not be disapplied or restricted by a condition attached under section 75, 77 or 78.

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

Modifications etc. (not altering text)

C29 Ss. 89-99 excluded (1.1.2007) by Gambling (Personal Licences) (Modification of Part 5 of the Gambling Act 2005) Regulations 2006 (S.I. 2006/3267), regs. 1(1), 2(1), **Sch.** Table 1

Commencement Information

I114 S. 94 in force at 1.1.2007 by S.I. 2006/3272, art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

95 Betting on the National Lottery

(1) This section applies to—

(a) a general betting operating licence,

(b) a pool betting operating licence, and

(c) a betting intermediary operating licence.

(2) A licence to which this section applies shall, by virtue of this subsection, be subject to the condition that nothing may be done in reliance on the licence in relation to a bet on the outcome of a lottery which forms part of the National Lottery.

Modifications etc. (not altering text)

C29 Ss. 89-99 excluded (1.1.2007) by Gambling (Personal Licences) (Modification of Part 5 of the Gambling Act 2005) Regulations 2006 (S.I. 2006/3267), regs. 1(1), 2(1), **Sch.** Table 1

Commencement Information

I115 S. 95 in force at 1.1.2007 by S.I. 2006/3272, art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

96 Gaming machine technical operating licence: standards

(1) The Commission may establish, or provide for the establishment of, standards in respect of the manufacture, supply, installation, adaptation, maintenance or repair of gaming machines or parts of gaming machines.

(2) Standards under subsection (1)—

(a) may operate by reference to regulations under Part 10, and

(b) may not make provision which is inconsistent with a provision of regulations under Part 10.

(3) Standards under subsection (1) may, in particular, make provision (which may include provision designed to discourage repetitive play or to protect children or other vulnerable persons from harm) about—

(a) the nature of a game that a machine is designed to be used to play;

(b) the way in which the results of a game are to be determined or presented;

(c) the nature of images or information displayed by or on a machine.

(4) In particular, the Commission may—

(a) provide for the enforcement of standards by the attachment of conditions under section 75 or 77;

(b) make arrangements with any person for the establishment of standards;

(c) make arrangements with any person for the administration of tests of compliance with standards;

(d) for the purpose of considering whether a condition under section 75 or 77 has been complied with, require the holder of a gaming machine technical operating licence—

(i) to submit to a test in accordance with arrangements made under paragraph (c) above, and

(ii) to produce specified evidence of the result of the test;

(e) for the purpose of considering whether to grant an application under this Part, require the holder of or an applicant for a gaming machine technical operating licence—

(i) to submit to a test in accordance with arrangements made under paragraph (c) above, and

(ii) to produce specified evidence of the result of the test.

(5) Standards established under subsection (1) may, in particular, be expressed—

(a) by reference to the opinion of a specified person or class of persons;

(b) by reference to a specified process or class of machine.

(6) This section is without prejudice to the generality of sections 75, 77 and 78.

Modifications etc. (not altering text)

C29 Ss. 89-99 excluded (1.1.2007) by Gambling (Personal Licences) (Modification of Part 5 of the Gambling Act 2005) Regulations 2006 (S.I. 2006/3267), regs. 1(1), 2(1), **Sch.** Table 1

Commencement Information

I116 S. 96 in force at 1.1.2007 by S.I. 2006/3272, art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

97 Gambling software operating licence: standards

(1) The Commission may establish, or provide for the establishment of, standards in respect of the manufacture, supply, installation or adaptation of gambling software.

(2) In particular, the Commission may—

(a) provide for the enforcement of standards by the attachment of conditions under section 75 or 77;

(b) make arrangements with any person for the establishment of standards;

(c) make arrangements with any person for the administration of tests of compliance with standards;

(d) for the purpose of considering whether a condition under section 75 or 77 has been complied with, require the holder of a gambling software operating licence—

(i) to submit to a test in accordance with arrangements made under paragraph (c) above, and

(ii) to produce specified evidence of the result of the test;

(e) for the purpose of considering whether to grant an application under this Part, require the holder of or an applicant for a gambling software operating licence—

(i) to submit to a test in accordance with arrangements made under paragraph (c) above, and

(ii) to produce specified evidence of the result of the test.

(3) Standards established under subsection (1) may, in particular, be expressed—

(a) by reference to the opinion of a specified person or class of persons;

(b) by reference to a specified process or description of software.

(4) This section is without prejudice to the generality of sections 75, 77 and 78.

Modifications etc. (not altering text)

C29 Ss. 89-99 excluded (1.1.2007) by Gambling (Personal Licences) (Modification of Part 5 of the Gambling Act 2005) Regulations 2006 (S.I. 2006/3267), regs. 1(1), 2(1), **Sch.** Table 1

Commencement Information

I117 S. 97 in force at 1.1.2007 by S.I. 2006/3272, art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

98 Lottery operating licences

(1) A lottery operating licence may be issued only to—

(a) a non-commercial society,

(b) a local authority, or

(c) a person proposing to act as external lottery manager on behalf of a non-commercial society or a local authority.

(2) A lottery operating licence may authorise—

(a) promotion generally or only specified promoting activities;

(b) the promotion of lotteries generally or only the promotion of lotteries of a specified kind or in specified circumstances;

(c) action as an external lottery manager (in which case it is known as a “lottery manager's operating licence”).

(3) In issuing a lottery operating licence to a society or authority the Commission—

(a) may attach a condition under section 75 or 77 requiring that the society or authority ensure that all the arrangements for the lottery are made by the holder of a lottery manager's operating licence, and

(b) may, if they attach a condition under paragraph (a), issue the lottery licence to the society or authority without consideration of the matters specified in section 70(1)(b).

(4) A lottery operating licence shall, by virtue of this subsection, permit the delivery of lottery tickets by post.

(5) The effect of the term implied by subsection (4) may not be disapplied or restricted by a condition attached under section 75, 77 or 78.

(6) In issuing a lottery operating licence the Commission may attach a condition under section 75 or 77 preventing, restricting or controlling the use of a rollover.

(7) In this section "local authority" means—

(a) in relation to England—

(i) a district council,

(ii) a county council,

(iii) a parish council,

(iv) a London borough council,

(v) the Common Council of the City of London, and

(vi) the Council of the Isles of Scilly,

(b) in relation to Wales—

(i) a county council,

(ii) a county borough council, and

(iii) a community council, and

(c) in relation to Scotland, a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c. 39).

Modifications etc. (not altering text)

C29 Ss. 89-99 excluded (1.1.2007) by Gambling (Personal Licences) (Modification of Part 5 of the Gambling Act 2005) Regulations 2006 (S.I. 2006/3267), regs. 1(1), 2(1), **Sch.** Table 1

Commencement Information

I118 S. 98 in force at 1.1.2007 by S.I. 2006/3272, art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

99 Mandatory conditions of lottery operating licence

(1) In issuing a lottery operating licence to a non-commercial society or to a local authority the Commission shall attach conditions under section 75 or 77 for the purpose of achieving the requirements specified in this section.

(2) The first requirement is that at least 20% of the proceeds of any lottery promoted in reliance on the licence are applied—

(a) in the case of a licence issued to a non-commercial society, to a purpose for which the promoting society is conducted, and

(b) in the case of a licence issued to a local authority, for a purpose for which the authority has power to incur expenditure.

(3) The second requirement is that—

Status: *Point in time view as at 25/05/2018. This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Gambling Act 2005. (See end of Document for details)*

(a) the proceeds of any lottery promoted in reliance on the licence may not exceed **[**[F17]£4,000,000,**]** and

(b) the aggregate of the proceeds of lotteries promoted wholly or partly in a calendar year in reliance on the licence may not exceed £10,000,000.

(4) The third requirement is that it must not be possible for the purchaser of a ticket in a lottery promoted in reliance on the licence to win by virtue of that ticket (whether in money, money's worth, or partly the one and partly the other) more than—

(a) £25,000, or

(b) if more, 10% of the proceeds of the lottery;

and any rollover must comply with this subsection.

(5) The fourth requirement is that where a person purchases a lottery ticket in a lottery promoted by a non-commercial society in reliance on the licence he receives a document which—

(a) identifies the promoting society,

(b) states the name and address of a member of the society who is designated, by persons acting on behalf of the society, as having responsibility within the society for the promotion of the lottery, and

(c) either—

(i) states the date of the draw (or each draw) in the lottery, or

(ii) enables the date of the draw (or each draw) in the lottery to be determined.

(6) The fifth requirement is that the price payable for purchasing each ticket in a lottery promoted in reliance on the licence—

(a) must be the same,

(b) must be shown on the ticket or in a document received by the purchaser, and

(c) must be paid to the promoter of the lottery before any person is given a ticket or any right in respect of membership of the class among whom prizes are to be allocated.

(7) For the purpose of subsections (5) and (6) a reference to a person receiving a document includes, in particular, a reference to a message being sent or displayed to him electronically in a manner which enables him, without incurring significant expense or delay, to—

(a) retain the message electronically, or

(b) print it.

(8) The sixth requirement is that membership of the class among whom prizes in any lottery promoted in reliance on the licence are allocated may not be dependent on making any payment (apart from payment of the price of a ticket).

(9) Where—

(a) conditions are attached to a lottery operating licence in accordance with this section, and

(b) the lottery operating licence is also subject to a condition under section 98(3)(a) requiring arrangements for the lottery to be made by the holder of a lottery manager's operating licence,

the conditions specified in paragraph (a) above shall, by virtue of this subsection, attach to the lottery manager's operating licence in so far as it is relied upon in pursuance of the condition specified in paragraph (b) above.

(10) Nothing in this section prevents the Commission from attaching a condition to a lottery operating licence of a kind similar to but more onerous than a requirement of this section.

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

Textual Amendments

F17 Word in s. 99(3)(a) substituted (4.2.2009) by Gambling Act 2005 (Variation of Monetary Limit) Order 2009 (S.I. 2009/207), arts. 1, **2**

Modifications etc. (not altering text)

C29 Ss. 89-99 excluded (1.1.2007) by Gambling (Personal Licences) (Modification of Part 5 of the Gambling Act 2005) Regulations 2006 (S.I. 2006/3267), regs. 1(1), 2(1), **Sch.** Table 1

C30 S. 99 modified (1.1.2007) by The Gambling Act 2005 (Commencement No. 6 and Transitional Provisions) Order 2006 (S.I. 2006/3272), art. 1(1), **Sch. 4 para. 73(4)-(7)**

Commencement Information

I119 S. 99 in force at 1.1.2007 by S.I. 2006/3272, art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

Maintenance

100 Annual fee

(1) The holder of an operating licence—

(a) shall pay a first annual fee to the Commission within such period after the issue of the licence as may be prescribed, and

(b) shall pay an annual fee to the Commission before each anniversary of the issue of the licence.

(2) In this section—

"annual fee" means a fee of such amount as may be prescribed, and

"prescribed" means prescribed by the Secretary of State by regulations.

(3) Regulations under this section may, in particular, make different provision for—

(a) different kinds of operating licence, or

(b) different circumstances.

(4) Subsection (1)(b) does not apply in relation to an anniversary of the issue of a licence on or immediately before which the licence ceases to have effect by virtue of section 111.

Modifications etc. (not altering text)

C31 S. 100 excluded (1.1.2007) by The Gambling Act 2005 (Commencement No. 6 and Transitional Provisions) Order 2006 (S.I. 2006/3272), art. 1(1), **Sch. 4 para. 42(7)(a)**

C32 S. 100(1) modified (1.1.2007) by The Gambling Act 2005 (Commencement No. 6 and Transitional Provisions) Order 2006 (S.I. 2006/3272), art. 1(1), **Sch. 4 para. 35**

Commencement Information

I120 S. 100 in force at 1.1.2007 by S.I. 2006/3272, art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

101 Change of circumstance

(1) The Secretary of State may make regulations requiring the holder of an operating licence—

(a) to notify the Commission of any change of circumstance of a prescribed kind in relation to him or to a licensed activity, and

(b) to give the Commission prescribed details of the change.

(2) If a change of circumstance notified under subsection (1) falsifies information contained in the operating licence in accordance with section 66 the notification must be accompanied by—

(a) the prescribed fee, and

(b) either—

(i) the licence, or

(ii) an application to the Commission for the issue of a copy of the licence under section 107.

(3) Where notification is accompanied by the licence, the Commission shall—

(a) make such alteration to the information contained in the licence as appears to it to be required by the change in circumstance, and

(b) return the licence to the licensee.

(4) Where the notification is accompanied by an application for a copy of the licence, the Commission shall, if it grants the application, issue the copy in a form which appears to the Commission to reflect the change in circumstance.

(5) In this section "prescribed" means prescribed by regulations under this section.

(6) The holder of an operating licence commits an offence if he fails without reasonable excuse to comply with regulations under this section.

(7) A person guilty of an offence under subsection (6) shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(8) This section does not prevent the imposition of a requirement to notify the Commission of a specified change of circumstance by way of the attachment of a condition to an operating licence.

Commencement Information

I121 S. 101 in force at 1.1.2007 by S.I. 2006/3272, art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

102 Change of corporate control

(1) This section applies where the holder of an operating licence is a company limited by shares ("the company").

(2) If a person becomes a controller of the company ("the new controller"), within the meaning of section 422 of the Financial Services and Markets Act 2000 (c. 8), the company shall inform the Commission and either—

(a) surrender the operating licence under section 113, or

(b) apply to the Commission under this section for a determination that the operating licence shall continue to have effect.

(3) An application under subsection (2)(b) must be accompanied by such information as the Commission may direct about—

(a) the new controller,

(b) his interest in the company, and

(c) his interest in any company of which the company is a subsidiary (within the meaning of **[**[F18]section 1159 of the Companies Act 2006**]**).

(4) On considering an application under section (2)(b) the Commission shall—

(a) make the determination sought, if satisfied that the Commission would have granted the operating licence to the licensee had the new controller been a controller of the company when the application for the operating licence was made, and

(b) otherwise, revoke the operating licence.

(5) If the Commission becomes aware that a company has failed to comply with the duty under subsection (2) within the period of five weeks beginning with the day on which the duty began to apply to the company, the Commission shall revoke the relevant operating licence.

(6) But the Commission may extend the period under subsection (5)—

(a) before it expires, or

(b) after it expires (if the relevant operating licence has not yet been revoked).

Textual Amendments

F18 Words in s. 102(3)(c) substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 1(2), **Sch. 1 para. 247** (with art. 10)

Modifications etc. (not altering text)

C33 Ss. 102 103 excluded (1.1.2007) by Gambling (Personal Licences) (Modification of Part 5 of the Gambling Act 2005) Regulations 2006 (S.I. 2006/3267), regs. 1(1), 2(1), **Sch.** Table 1

Commencement Information

I122 S. 102 in force at 1.1.2007 by S.I. 2006/3272, art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

103 Section 102: supplemental

(1) The Secretary of State may by regulations provide for section 102 not to apply to the holder of a specified description of operating licence.

(2) An application under section 102(2)(b) must be accompanied by the prescribed fee.

(3) An application may be made under section 102(2)(b) in respect of a person who is expected to become a controller of a company.

(4) The Commission shall as soon as is reasonably practicable inform an applicant under section 102(2)(b) of—
  (a) the Commission's decision, and
  (b) the reasons for it.

(5) In giving a direction under section 102(3) the Commission shall have regard to normal commercial practices in relation to the confidentiality of information.

(6) Regulations under subsection (2) above may, in particular, provide for a reduction of fee where the application is a result of—
  (a) the merger of more than one company, or
  (b) the division of a company.

(7) Revocation of an operating licence under section 102 shall be treated for all purposes (including the application of section 119) as revocation under section 119.

Modifications etc. (not altering text)

C33 Ss. 102 103 excluded (1.1.2007) by Gambling (Personal Licences) (Modification of Part 5 of the Gambling Act 2005) Regulations 2006 (S.I. 2006/3267), regs. 1(1), 2(1), **Sch.** Table 1

Commencement Information

I123 S. 103 in force at 1.1.2007 by S.I. 2006/3272, art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

104 Application to vary licence

(1) The holder of an operating licence may apply to the Commission to vary the licence by—
  (a) adding, amending or removing a licensed activity,
  (b) amending another detail of the licence, or
  (c) adding, amending or removing a condition attached to the licence under section 77.

(2) A licence may not be varied under this section so as to authorise anyone other than the person to whom it was issued to provide facilities for gambling.

(3) The provisions of this Part shall apply in relation to an application for variation as they apply in relation to an application for a licence—
  (a) subject to the provisions of this section, and
  (b) with any other necessary modifications.

(4) Regulations under this Part which relate to an application for an operating licence may make—
  (a) provision which applies only in the case of an application for variation;
  (b) provision which does not apply in the case of an application for variation;
  (c) different provision in relation to an application for variation from that made in relation to an application for an operating licence;
  (d) different provision in relation to applications for variations of different kinds.

(5) An application for variation must (in addition to anything required by section 69) be accompanied by—

(a) a statement of the variation sought, and
(b) either—
(i) the licence to be varied, or
(ii) a statement explaining why it is not reasonably practicable to produce the licence.

(6) In granting an application for variation the Commission—
(a) shall specify a time when the variation shall begin to have effect, and
(b) may make transitional provision.

Modifications etc. (not altering text)
C34 Ss. 104-107 excluded (1.1.2007) by The Gambling Act 2005 (Commencement No. 6 and Transitional Provisions) Order 2006 (S.I. 2006/3272), art. 1(1), **Sch. 4 para. 42(7)(b)**

Commencement Information
I124 S. 104 in force at 1.1.2007 by S.I. 2006/3272, art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

105 Amendment

(1) The Commission may require the holder of an operating licence to submit it to the Commission for the purpose of amendment to reflect—
(a) a general variation of conditions under section 75,
(b) a change notified under section 101,
(c) the grant of an application for variation under section 104,
(d) the attachment of an additional condition, or the amendment of a condition, under section 117,
(e) the grant of an application for renewal under section 112, or
(f) anything done in relation to a personal licence under Part 6.

(2) A licensee shall comply with a requirement under subsection (1) within the period of 14 days beginning with the day on which he receives notice of the requirement.

(3) A person commits an offence if he fails without reasonable excuse to comply with a requirement imposed under subsection (1).

(4) A person guilty of an offence under subsection (3) shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(5) Subsection (1)(a) is without prejudice to section 76(4)(c).

Modifications etc. (not altering text)
C34 Ss. 104-107 excluded (1.1.2007) by The Gambling Act 2005 (Commencement No. 6 and Transitional Provisions) Order 2006 (S.I. 2006/3272), art. 1(1), **Sch. 4 para. 42(7)(b)**

Commencement Information
I125 S. 105 in force at 1.1.2007 by S.I. 2006/3272, art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

106 Register of operating licences

(1) The Commission shall—

(a) maintain a register of operating licences containing such details of and relating to each licence as the Commission thinks appropriate,

(b) make the register available for inspection by members of the public at all reasonable times, and

(c) make arrangements for the provision of a copy of an entry in the register to a member of the public on request.

(2) The Commission may refuse to provide access to the register or to provide a copy of an entry unless the person seeking access or a copy pays a fee specified by the Commission.

(3) The Commission may not specify a fee under subsection (2) which exceeds the reasonable cost of providing the service sought (but in calculating the cost of providing a service to a person the Commission may include a reasonable share of expenditure which is referable only indirectly to the provision of that service).

Modifications etc. (not altering text)

C34 Ss. 104-107 excluded (1.1.2007) by The Gambling Act 2005 (Commencement No. 6 and Transitional Provisions) Order 2006 (S.I. 2006/3272), art. 1(1), **Sch. 4 para. 42(7)(b)**

Commencement Information

I126 S. 106 in force at 1.1.2007 by S.I. 2006/3272, art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

107 Copy of licence

(1) The Commission may make arrangements to issue to a licensee on request a copy of an operating licence which has been lost, stolen or damaged.

(2) The arrangements may, in particular, include a requirement—

(a) for the payment of a fee not exceeding such sum as may be prescribed for the purposes of this subsection by the Secretary of State by regulations;

(b) in the case of a licence being lost or stolen, that the licensee has complied with specified arrangements for reporting the loss or theft to the police.

(3) A copy of a licence issued under this section shall be treated as if it were the licence.

Modifications etc. (not altering text)

C34 Ss. 104-107 excluded (1.1.2007) by The Gambling Act 2005 (Commencement No. 6 and Transitional Provisions) Order 2006 (S.I. 2006/3272), art. 1(1), **Sch. 4 para. 42(7)(b)**

C35 S. 107 modified (1.1.2007) by The Gambling Act 2005 (Commencement No. 6 and Transitional Provisions) Order 2006 (S.I. 2006/3272), art. 1(1), Sch. 4 paras. 44, **47**

Commencement Information

I127 S. 107 in force at 1.1.2007 by S.I. 2006/3272, art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

108 Production of licence

(1) A constable or enforcement officer may require the holder of an operating licence to produce it to the constable or enforcement officer within a specified period.

(2) A licensee commits an offence if he fails without reasonable excuse to comply with a requirement under subsection (1).

(3) A person guilty of an offence under subsection (2) shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

Commencement Information

I128 S. 108 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

109 Conviction

(1) If the holder of an operating licence is convicted of an offence by or before a court in Great Britain he shall as soon as is reasonably practicable notify the Commission of—
  (a) his conviction, and
  (b) any sentence passed in respect of it.

(2) If the holder of an operating licence is convicted of a relevant offence by or before a court in Great Britain he shall immediately inform the court that he is the holder of an operating licence.

(3) If the holder of an operating licence is convicted of a relevant offence by or before a court outside Great Britain he shall as soon as is reasonably practicable notify the Commission of—
  (a) his conviction, and
  (b) any sentence passed in respect of it.

(4) A person commits an offence if he fails without reasonable excuse to comply with any of subsections (1) to (3).

(5) A person guilty of an offence under subsection (4) shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

Commencement Information

I129 S. 109 in force at 1.1.2007 by S.I. 2006/3272, art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

Duration

110 Indefinite duration

An operating licence shall continue to have effect unless and until it ceases to have effect in accordance with—
  (a) a determination under section 111, or
  (b) section 113, 114, 115, 118 or 119.

Modifications etc. (not altering text)

C36 S. 110 modified (1.1.2007) by The Gambling Act 2005 (Commencement No. 6 and Transitional Provisions) Order 2006 (S.I. 2006/3272), art. 1(1), **Sch. 4 para. 42(8)**

C37 Ss. 110-112 excluded (1.1.2007) by Gambling (Personal Licences) (Modification of Part 5 of the Gambling Act 2005) Regulations 2006 (S.I. 2006/3267), regs. 1(1), 2(1), **Sch.** Table 1

Commencement Information

I130 S. 110 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

111 Power to limit duration

(1) The Commission may determine that operating licences, or a specified class of operating licence, shall cease to have effect at the end of a specified period (unless terminated earlier in accordance with section 113, 114, 115 or 119).

(2) The period specified under subsection (1)—

(a) in the case of an operating licence issued after the determination, must begin with the date on which the licence is issued, and

(b) in the case of an operating licence issued before the determination, must begin with the date of the determination.

(3) The Commission—

(a) may determine different periods under subsection (1) for operating licences authorising different classes of activity (but may not otherwise determine different periods for different licences),

(b) may alter a determination under subsection (1) (but an alteration shall have effect only in relation to licences issued after the alteration), and

(c) may revoke a determination under subsection (1) (in which case the determination shall cease to have effect in relation to licences already issued).

(4) The Commission shall publish any determination under subsection (1) as part of a statement (or revised statement) under section 23.

Modifications etc. (not altering text)

C37 Ss. 110-112 excluded (1.1.2007) by Gambling (Personal Licences) (Modification of Part 5 of the Gambling Act 2005) Regulations 2006 (S.I. 2006/3267), regs. 1(1), 2(1), **Sch.** Table 1

C38 S. 111 excluded (1.1.2007) by The Gambling Act 2005 (Commencement No. 6 and Transitional Provisions) Order 2006 (S.I. 2006/3272), art. 1(1), **Sch. 4 para. 42(7)(c)**

Commencement Information

I131 S. 111 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

112 Renewal of licence

(1) Where an operating licence is subject to a determination under section 111, the licensee may apply to the Commission for renewal of the licence.

(2) The provisions of this Part shall apply in relation to an application for renewal as they apply in relation to an application for a licence—
  (a) subject to the provisions of this section, and
  (b) with any other necessary modifications.

(3) An application for renewal of an operating licence may be made only during the period which—
  (a) begins three months before the date on which the licence would otherwise expire by virtue of section 111, and
  (b) ends one month before the date on which the licence would otherwise expire by virtue of that section.

(4) Where an application for renewal of an operating licence is awaiting determination on the date when it would expire by virtue of section 111, the licence shall continue to have effect by virtue of this subsection until the application is determined (unless it ceases to have effect by virtue of section 113, 114, 115, 118 or 119).

(5) A direction or regulations under this Part which relate to an application for an operating licence may make—
  (a) provision which applies only in the case of an application for renewal;
  (b) provision which does not apply in the case of an application for renewal;
  (c) different provision in relation to an application for renewal from that made in relation to an application for an operating licence.

(6) An application for renewal must (in addition to anything required by section 69) be accompanied by—
  (a) the licence to be renewed, or
  (b) a statement explaining why it is not reasonably practicable to submit the licence to be renewed.

(7) The Commission shall determine the period during which a renewed operating licence is to have effect (subject to sections 113, 114, 115, 118 and 119); and the Commission—
  (a) may determine different periods for operating licences authorising different classes of activity (but may not otherwise determine different periods for different licences),
  (b) may alter a determination (but an alteration shall have effect only in relation to licences issued after the alteration), and
  (c) shall publish any determination under this subsection as part of a statement (or revised statement) under section 23.

(8) The Secretary of State may by order amend subsection (3) so as to substitute a different time for a time specified.

Modifications etc. (not altering text)

C37 Ss. 110-112 excluded (1.1.2007) by Gambling (Personal Licences) (Modification of Part 5 of the Gambling Act 2005) Regulations 2006 (S.I. 2006/3267), regs. 1(1), 2(1), **Sch.** Table 1

C39 S. 112 excluded (1.1.2007) by The Gambling Act 2005 (Commencement No. 6 and Transitional Provisions) Order 2006 (S.I. 2006/3272), art. 1(1), **Sch. 4 para. 42(7)(c)**

Commencement Information

I132 S. 112 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

113 Surrender

An operating licence shall cease to have effect if the licensee—

(a) notifies the Commission of his intention to surrender the licence, and

(b) gives the Commission either—

(i) the licence, or

(ii) a written statement explaining why it is not reasonably practicable to produce the licence.

Modifications etc. (not altering text)

C40 S. 113 modified (1.1.2007) by The Gambling Act 2005 (Commencement No. 6 and Transitional Provisions) Order 2006 (S.I. 2006/3272), art. 1(1), Sch. 4 paras. 44, **47**

Commencement Information

I133 S. 113 in force at 1.1.2007 by S.I. 2006/3272, art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

114 Lapse

(1) In the case of an operating licence issued to an individual, the licence shall lapse if—

(a) the licensee dies,

(b) the licensee becomes, in the opinion of the Commission as notified to the licensee, incapable of carrying on the licensed activities by reason of mental or physical incapacity,

(c) the licensee becomes bankrupt (within the meaning of section 381 of the Insolvency Act 1986 (c. 45)), **[**[F19]or a debt relief order is made in respect of the licensee (under Part 7A of the Insolvency Act 1986),**]** or

(d) sequestration of the licensee's estate is awarded under section **[**[F20]22(1) of the Bankruptcy (Scotland) Act 2016**]** .

(2) In any other case an operating licence shall lapse if the licensee—

(a) ceases to exist, or

(b) goes into liquidation (within the meaning of section 247(2) of the Insolvency Act 1986).

Textual Amendments

F19 Words in s. 114(1)(c) inserted (1.10.2012) by The Tribunals, Courts and Enforcement Act 2007 (Consequential Amendments) Order 2012 (S.I. 2012/2404), art. 1, **Sch. 2 para. 55(2)** (with art. 5)

F20 Words in s. 114(1)(d) substituted (30.11.2016) by The Bankruptcy (Scotland) Act 2016 (Consequential Provisions and Modifications) Order 2016 (S.I. 2016/1034), art. 1, **Sch. 1 para. 28(2)**

Modifications etc. (not altering text)

C41 S. 114 applied (with modifications) (1.1.2007) by Gambling (Personal Licences) (Modification of Part 5 of the Gambling Act 2005) Regulations 2006 (S.I. 2006/3267), regs. 1(1), 2(2), **Sch.** Table 2

C42 S. 114 modified (1.1.2007) by The Gambling Act 2005 (Commencement No. 6 and Transitional Provisions) Order 2006 (S.I. 2006/3272), art. 1(1), Sch. 4 paras. 44, **47**

Commencement Information

I134 S. 114 in force at 1.1.2007 by S.I. 2006/3272, art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

115 Forfeiture

(1) Where the holder of an operating licence is convicted of a relevant offence by or before a court in Great Britain the court may order forfeiture of the licence.

(2) Forfeiture under this section shall be on such terms (which may include terms as to suspension) as may be specified by—
  (a) the court which orders forfeiture,
  (b) a court to which an appeal against the conviction, or against any order made on the conviction, has been or could be made, or
  (c) the High Court, if hearing proceedings relating to the conviction.

(3) Subject to any express provision made under subsection (2), an operating licence shall cease to have effect on the making of a forfeiture order under subsection (1).

(4) The terms on which a forfeiture order is made under this section shall, in particular, include a requirement that the licensee deliver to the Commission, within such time as the order may specify—
  (a) the licence, or
  (b) a statement explaining why it is not reasonably practicable to produce the licence.

(5) As soon as is reasonably practicable after making an order for forfeiture under this section the court shall notify the Commission.

Modifications etc. (not altering text)

C43 S. 115 modified (1.1.2007) by The Gambling Act 2005 (Commencement No. 6 and Transitional Provisions) Order 2006 (S.I. 2006/3272), art. 1(1), Sch. 4 paras. 44, **47**

Commencement Information

I135 S. 115 in force at 1.1.2007 by S.I. 2006/3272, art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

Regulation

116 Review

(1) The Commission may in relation to operating licences of a particular description review—
  (a) the manner in which licensees carry on licensed activities, and
  (b) in particular, arrangements made by licensees to ensure compliance with conditions attached under section 75, 77 or 78.

(2) The Commission may review any matter connected with the provision of facilities for gambling as authorised by an operating licence if the Commission—

(a) has reason to suspect that activities may have been carried on in purported reliance on the licence but not in accordance with a condition of the licence,

(b) believes that the licensee, or a person who exercises a function in connection with or is interested in the licensed activities, has acquired a conviction of a kind mentioned in section 71(1), or

(c) for any reason—

(i) suspects that the licensee may be unsuitable to carry on the licensed activities, or

(ii) thinks that a review would be appropriate.

(3) For the purposes of subsection (2)(c) a reason—

(a) may, in particular, relate to the receipt of a complaint about the licensee's activities;

(b) need not relate to any suspicion or belief about the licensee's activities.

(4) Before commencing a review of an operating licence under subsection (2) the Commission shall—

(a) notify the licensee, and

(b) inform him of the procedure to be followed in the conduct of the review.

(5) In conducting a review of an operating licence under subsection (2) the Commission—

(a) shall give the licensee an opportunity to make representations, and

(b) may give other persons an opportunity to make representations.

Modifications etc. (not altering text)

C44 S. 116 applied (with modifications) (1.1.2007) by Gambling (Personal Licences) (Modification of Part 5 of the Gambling Act 2005) Regulations 2006 (S.I. 2006/3267), regs. 1(1), 2(2), **Sch.** Table 2

C45 Ss. 116-122 applied (with modifications) (1.1.2007) by The Gambling Act 2005 (Commencement No. 6 and Transitional Provisions) Order 2006 (S.I. 2006/3272), art. 1(1), **Sch. 4 para. 48**

C46 Ss. 116-120 modified (1.9.2007) by Gambling Act 2005 (Horserace Betting Levy) Order 2007 (S.I. 2007/2159), arts. 1(1), **3**

Commencement Information

I136 S. 116(1)(2)(a) in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

I137 S. 116(2)(b) (c) (3)-(5) in force at 1.1.2007 by S.I. 2006/3272, art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

117 Regulatory powers

(1) Following a review under section 116(1) or (2) the Commission may—

(a) give the holder of an operating licence a warning;

(b) attach an additional condition to a licence under section 77;

(c) remove or amend a condition attached to a licence under section 77;

F21(d) . . . . . .

(e) exercise the power under section 118 to suspend a licence;

(f) exercise the power under section 119 to revoke a licence;

(g) exercise the power under section 121 to impose a penalty.

(2) Where the Commission determines to take action under subsection (1) in respect of a licence it shall as soon as is reasonably practicable notify the licensee of—
  (a) the action, and
  (b) the Commission's reasons.

(3) In determining what action to take under subsection (1) following a review the Commission may have regard to a warning under that subsection given to the licensee following an earlier review (whether or not of that licence).

Textual Amendments

F21 S. 117(1)(d) repealed (1.9.2007) by Gambling Act 2005 (Repeal) (Remote Operating Licence and Credit) Regulations 2007 (S.I. 2007/2321), regs. 1, **2(b)**

Modifications etc. (not altering text)

C45 Ss. 116-122 applied (with modifications) (1.1.2007) by The Gambling Act 2005 (Commencement No. 6 and Transitional Provisions) Order 2006 (S.I. 2006/3272), art. 1(1), **Sch. 4 para. 48**

C46 Ss. 116-120 modified (1.9.2007) by Gambling Act 2005 (Horserace Betting Levy) Order 2007 (S.I. 2007/2159), arts. 1(1), **3**

C47 S. 117(1) applied (with modifications) (1.1.2007) by Gambling (Personal Licences) (Modification of Part 5 of the Gambling Act 2005) Regulations 2006 (S.I. 2006/3267), regs. 1(1), 2(2), **Sch.** Table 2

Commencement Information

I138 S. 117 in force at 1.1.2007 for specified purposes by S.I. 2006/3272, art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

I139 S. 117 in force at 1.9.2007 in so far as not already in force by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

118 Suspension

(1) The Commission may suspend an operating licence if following a review under section 116(1) or (2) the Commission thinks that any of the conditions specified in section 120(1) applies.

(2) The Commission may suspend an operating licence if at the time of deciding to conduct a review under section 116(1) or (2), or at any time during the course of a review, the Commission suspects that any of the conditions specified in section 120(1) may apply.

(3) The Commission may suspend an operating licence if it thinks that any of the conditions specified in section 120(2) applies.

[[F22](3A) The Commission must suspend an operating licence if directed to do so under paragraph 3 of Schedule 27 to the Finance Act 2014.**]**

(4) Where the Commission suspends an operating licence it—
  (a) shall specify the time when the suspension takes effect,
  (b) shall specify either—
    (i) a period for which the suspension shall last (which is without prejudice to the re-exercise of the power under subsection (1) on or after the expiry of that period), or

(ii) that the suspension shall last until some specified event occurs (which may be the giving of a notice by the Commission), and

(c) may make saving or transitional provision (which may, in particular, provide for a licence to continue to have effect in relation to a gaming machine supplied, or another thing done, before the time when the suspension takes effect for other purposes).

(5) An operating licence shall have no effect in respect of anything done while it is suspended under this section.

Textual Amendments

F22 S. 118(3A) inserted (1.12.2014) by Finance Act 2014 (c. 26), s. 198(2)(c), **Sch. 28 para. 24** (with Sch. 29)

Modifications etc. (not altering text)

C45 Ss. 116-122 applied (with modifications) (1.1.2007) by The Gambling Act 2005 (Commencement No. 6 and Transitional Provisions) Order 2006 (S.I. 2006/3272), art. 1(1), **Sch. 4 para. 48**

C46 Ss. 116-120 modified (1.9.2007) by Gambling Act 2005 (Horserace Betting Levy) Order 2007 (S.I. 2007/2159), arts. 1(1), **3**

Commencement Information

I140 S. 118 in force at 1.1.2007 for specified purposes by S.I. 2006/3272, art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

I141 S. 118 in force at 1.9.2007 in so far as not already in force by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

[[F23]118A Reinstatement

(1) If an operating licence has been suspended in accordance with section 118(3A), the Commission must reinstate the licence if directed to do so under paragraph 4 or 5 of Schedule 27 to the Finance Act 2014.

(2) Where the Commission reinstate an operating licence it—

(a) must specify the time when the reinstatement takes effect, and

(b) may make the reinstatement subject to conditions.**]**

Textual Amendments

F23 S. 118A inserted (1.12.2014) by Finance Act 2014 (c. 26), s. 198(2)(c), **Sch. 28 para. 25** (with Sch. 29)

119 Revocation

(1) The Commission may revoke an operating licence if following a review under section 116(1) or (2) the Commission thinks that any of the conditions specified in section 120(1) applies.

(2) The Commission may revoke an operating licence if it thinks that any of the conditions specified in section 120(2) applies.

(3) The Commission shall revoke an operating licence if the licensee fails to pay the annual fee in accordance with section 100; but the Commission may disapply this subsection if it thinks that a failure to pay is attributable to administrative error.

[[F24](3A) The Commission must revoke an operating licence if directed to do so under paragraph 6 of Schedule 27 to the Finance Act 2014.**]**

(4) Where the Commission revokes an operating licence it—

(a) shall specify the time when the revocation takes effect, and

(b) may make saving or transitional provision (which may, in particular, provide for a licence to continue to have effect in relation to a gaming machine supplied, or another thing done, before the time when the revocation takes effect for other purposes).

Textual Amendments

F24 S. 119(3A) inserted (1.12.2014) by Finance Act 2014 (c. 26), s. 198(2)(c), **Sch. 28 para. 26** (with Sch. 29)

Modifications etc. (not altering text)

C45 Ss. 116-122 applied (with modifications) (1.1.2007) by The Gambling Act 2005 (Commencement No. 6 and Transitional Provisions) Order 2006 (S.I. 2006/3272), art. 1(1), **Sch. 4 para. 48**

C46 Ss. 116-120 modified (1.9.2007) by Gambling Act 2005 (Horserace Betting Levy) Order 2007 (S.I. 2007/2159), arts. 1(1), **3**

C48 S. 119 applied (with modifications) (1.1.2007) by Gambling (Personal Licences) (Modification of Part 5 of the Gambling Act 2005) Regulations 2006 (S.I. 2006/3267), regs. 1(1), 2(2), **Sch.** Table 2

Commencement Information

I142 S. 119 in force at 1.1.2007 for specified purposes by S.I. 2006/3272, art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

I143 S. 119 in force at 1.9.2007 in so far as not already in force by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

120 Conditions for suspension or revocation

(1) The conditions referred to in sections 118(1) and (2) and 119(1) are—

(a) that a licensed activity is being or has been carried on in a manner which is inconsistent with the licensing objectives,

(b) that a condition of the licence has been breached,

(c) that the licensee has failed to cooperate with a review under section 116(1) or (2), or

(d) that the licensee is unsuitable to carry on the licensed activities.

(2) The conditions referred to in sections 118(3) and 119(2) are—

(a) that the licensee has failed to comply with a requirement of regulations under section 101, or

(b) that the licensee has failed to submit the licence to the Commission for amendment in accordance with section 105.

(3) In considering a licensee's suitability for the purpose of subsection (1)(d) the Commission may, in particular, have regard to—

(a) the integrity of the licensee or of any person who exercises a function in connection with or is interested in the licensed activities;

(b) the competence of the licensee, or of any person who exercises a function in connection with the licensed activities, to carry on the licensed activities in a manner consistent with pursuit of the licensing objectives;

(c) the financial and other circumstances of the licensee or of any person who exercises a function in connection with or is interested in the licensed activities (and, in particular, the resources available for the purpose of carrying on the licensed activities).

Modifications etc. (not altering text)

C45 Ss. 116-122 applied (with modifications) (1.1.2007) by The Gambling Act 2005 (Commencement No. 6 and Transitional Provisions) Order 2006 (S.I. 2006/3272), art. 1(1), **Sch. 4 para. 48**

C46 Ss. 116-120 modified (1.9.2007) by Gambling Act 2005 (Horserace Betting Levy) Order 2007 (S.I. 2007/2159), arts. 1(1), **3**

C49 S. 120(3) applied (with modifications) (1.1.2007) by Gambling (Personal Licences) (Modification of Part 5 of the Gambling Act 2005) Regulations 2006 (S.I. 2006/3267), regs. 1(1), 2(2), **Sch.** Table 2

Commencement Information

I144 S. 120 in force at 1.1.2007 for specified purposes by S.I. 2006/3272, art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

I145 S. 120 in force at 1.9.2007 in so far as not already in force by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

121 Financial penalty

(1) The Commission may require the holder of an operating licence to pay a penalty if the Commission thinks that a condition of the licence has been breached.

(2) Before imposing a requirement on a licensee to pay a penalty under this section the Commission must notify him—

(a) that the Commission proposes to require him to pay a penalty,

(b) of the amount of the proposed penalty,

(c) of the Commission's reasons, and

(d) of a period within which he may make representations to the Commission.

(3) The Commission may not give a notice under subsection (2) in respect of the breach of a condition after the end of the period of two years beginning with—

(a) the day on which the breach occurred or began to occur, or

(b) if later, the day on which the breach came to the knowledge of the Commission.

(4) After the end of the period specified under subsection (2)(d) the Commission may give the licensee a notice requiring him to pay a penalty under this section.

(5) A penalty imposed by notice under subsection (4)—

(a) shall be payable by the licensee to the Commission,

(b) may be enforced as if it were a debt owed by the licensee to the Commission, and

(c) on receipt by the Commission shall be paid into the Consolidated Fund after deduction of a sum which represents the direct costs to the Commission of, and a reasonable share of expenditure by the Commission which is indirectly referable to—

(i) the investigation by the Commission of the matter in respect of which the penalty is imposed (whether by review under section 116 or otherwise), or

(ii) the imposition and enforcement of the penalty.

(6) The Commission shall—

(a) prepare a statement setting out the principles to be applied by the Commission in exercising the powers under this section,

(b) review the statement from time to time,

(c) revise the statement when the Commission thinks it necessary,

(d) as soon as is reasonably practicable—

(i) send the statement and any revision to the Secretary of State, and

(ii) publish the statement and any revision, and

(e) have regard to the statement when exercising a power under this section.

(7) The statement maintained under subsection (6) must, in particular, require the Commission in considering the imposition of a penalty under this section or the amount of a penalty to have regard, in particular, to—

(a) the seriousness of the breach of condition in respect of which the penalty is proposed,

(b) whether or not the licensee knew or ought to have known of the breach, and

(c) the nature of the licensee (including, in particular, his financial resources).

(8) Before preparing or revising a statement under subsection (6) the Commission shall consult—

(a) the Secretary of State,

(b) the Lord Chancellor, and

(c) such other persons as the Commission thinks appropriate.

Modifications etc. (not altering text)

C45 Ss. 116-122 applied (with modifications) (1.1.2007) by The Gambling Act 2005 (Commencement No. 6 and Transitional Provisions) Order 2006 (S.I. 2006/3272), art. 1(1), **Sch. 4 para. 48**

Commencement Information

I146 S. 121 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

122 Information

(1) The holder of an operating licence shall comply with a request of the Commission to—

(a) produce a written or electronic record relating to the licensed activities;

(b) provide a copy of a written or electronic record relating to the licensed activities;

(c) provide information about the licensed activities.

(2) A request under subsection (1) may specify—
- (a) the form and manner in which a record or information is to be produced or provided;
- (b) the period within which a record or information is to be produced or provided.

(3) The Commission may retain anything provided under subsection (1).

(4) The Commission may exercise a power under this section only for the purpose of—
- (a) determining whether activities have been carried on in purported reliance on the licence but not in accordance with a condition of the licence, or
- (b) determining the suitability of the licensee to carry on the licensed activities.

(5) A person commits an offence if he fails without reasonable excuse to comply with subsection (1).

(6) A person guilty of an offence under subsection (5) shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

Modifications etc. (not altering text)

C45 Ss. 116-122 applied (with modifications) (1.1.2007) by The Gambling Act 2005 (Commencement No. 6 and Transitional Provisions) Order 2006 (S.I. 2006/3272), art. 1(1), **Sch. 4 para. 48**

Commencement Information

I147 S. 122 in force at 1.1.2007 by S.I. 2006/3272, art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

General

123 Levy

(1) The Secretary of State may make regulations requiring holders of operating licences to pay an annual levy to the Commission.

(2) The regulations shall, in particular, make provision for—
- (a) the amount of the levy;
- (b) timing of payment of the levy.

(3) The regulations may, in particular, make provision—
- (a) determining the amount of the levy by reference to a percentage of specified receipts of an operating licence holder,
- (b) determining the amount of the levy by reference to a percentage of specified profits of an operating licence holder,
- (c) determining the amount of the levy by reference to a percentage of the annual fee under section 100,
- (d) providing for the determination of the amount of the levy according to a specified formula, or
- (e) providing for the determination of the amount of the levy in some other way.

(4) Any sum due by way of levy by virtue of this section shall be treated for the purposes of this Act as if it were due by way of annual fee under section 100.

(5) The Commission shall, with the consent of the Treasury and of the Secretary of State, expend money received by way of levy for purposes related to, or by providing financial assistance for projects related to—
  (a) addiction to gambling,
  (b) other forms of harm or exploitation associated with gambling, or
  (c) any of the licensing objectives.

(6) In subsection (5) the reference to financial assistance is a reference to grants, loans and any other form of financial assistance, which may be made or given on terms or conditions (which may include terms and conditions as to repayment with or without interest).

(7) The Secretary of State shall consult the Commission before making regulations under this section.

Modifications etc. (not altering text)
C50 S. 123 excluded (1.1.2007) by Gambling (Personal Licences) (Modification of Part 5 of the Gambling Act 2005) Regulations 2006 (S.I. 2006/3267), regs. 1(1), 2(1), **Sch.** Table 1

Commencement Information
I148 S. 123 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

124 Directions and requirements

Where the Commission has power under this Part to give a direction or impose a requirement it may give different directions or impose different requirements in relation to different cases or circumstances.

Commencement Information
I149 S. 124 in force at 1.1.2007 by S.I. 2006/3272, art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

125 Relevant offence: disapplication of rehabilitation

Section 4 of the Rehabilitation of Offenders Act 1974 (c. 53) (effect of rehabilitation) shall not apply for the purposes of or in connection with—
  (a) section 69(2)(d), or
  (b) section 71(1).

Commencement Information
I150 S. 125 in force at 1.1.2007 by S.I. 2006/3272, art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

126 [F25]Interpretation

(1) In this Part—
  "conviction"—

(a) has the meaning given by section 1(4) of the Rehabilitation of Offenders Act 1974, and

(b) includes, to the extent required by section 125, a spent conviction within the meaning of that Act,

"holder", in relation to an operating licence, means the person to whom the licence is issued,

"the licensed activities" in relation to an operating licence means the activities which it authorises, and

"licensee", in relation to an operating licence, means the person to whom the licence is issued.

(2) In this Act "relevant offence" means—

(a) an offence listed in Schedule 7, and

(b) an offence under the law of a country or territory outside the United Kingdom (a "foreign offence") which prohibits a kind of activity prohibited by an offence listed in that Schedule (a "domestic offence").

(3) For the purpose of subsection (2)(b) it is immaterial—

(a) whether or not the foreign offence prohibits all the kinds of activity prohibited by the domestic offence, and

(b) whether or not the foreign offence prohibits kinds of activity not prohibited by the domestic offence.

Textual Amendments

F25 S. 126 for specified purposes in force in so far as not already in force (1.1.2007) by The Gambling Act 2005 (Commencement No. 6 and Transitional Provisions) Order 2006 (S.I. 2006/3272), art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

Modifications etc. (not altering text)

C51 S. 126(1) applied (with modifications) (1.1.2007) by Gambling (Personal Licences) (Modification of Part 5 of the Gambling Act 2005) Regulations 2006 (S.I. 2006/3267), regs. 1(1), 2(2), **Sch.** Table 2

PART 6

PERSONAL LICENCES

Modifications etc. (not altering text)

C52 Pt. 6 modified (1.1.2007) by The Gambling Act 2005 (Commencement No. 6 and Transitional Provisions) Order 2006 (S.I. 2006/3272), art. 1(1), **Sch. 4 para. 51**

127 Nature of personal licence

(1) For the purposes of this Act a "personal licence" is a licence which authorises an individual to perform the functions of a specified management office, or to perform a specified operational function, in connection with—

(a) the provision of facilities for gambling, or

(b) a person who provides facilities for gambling.

(2) In this section "management office" and "operational function" have the same meaning as in section 80.

Commencement Information

I151 S. 127 in force at 1.10.2005 by S.I. 2005/2455, art. 2(1), **Sch.** (with art. 3)

128 Application of provisions of Part 5

(1) The provisions of Part 5 (other than section 65(2), (4) and (5)) shall apply to a personal licence as they apply to an operating licence, with—

(a) the modifications and exclusions specified in this Part,

(b) such modifications and exclusions as the Secretary of State may specify by regulations, and

(c) any other necessary modifications.

(2) Regulations under a provision of Part 5—

(a) may make different provision for purposes of this Part and for purposes of that Part, and

(b) in making provision for purposes of this Part, may make different provision in relation to personal licences authorising—

(i) the performance of different kinds of function, or

(ii) the performance of functions in different circumstances.

Commencement Information

I152 S. 128 in force at 1.10.2005 for specified purposes by S.I. 2005/2455, art. 2(1), **Sch.** (with art. 3)

I153 S. 128 in force at 1.1.2007 for specified purposes by S.I. 2006/3272, art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

I154 S. 128 in force at 1.9.2007 in so far as not already in force by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

129 Exemption for small-scale operators

(1) A condition may not be attached to an operating licence under section 75, 77 or 78 requiring possession of a personal licence if the licensee is a small-scale operator.

(2) In this section "small-scale operator" shall have such meaning as the Secretary of State may prescribe by regulations.

(3) Regulations under subsection (2) may, in particular, make provision by reference to—

(a) the size or value of business carried on, or expected to be carried on, in reliance on an operating licence;

(b) the number of persons employed, or expected to be employed, by the licensee.

(4) A constable or enforcement officer may under section 108(1) require a small-scale operator to produce his operating licence—

(a) within a specified period, or

(b) while the operator is carrying on a licensed activity, immediately.

Status: *Point in time view as at 25/05/2018. This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Gambling Act 2005. (See end of Document for details)*

Commencement Information

I155 S. 129 in force at 1.1.2007 by S.I. 2006/3272, art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

130 Application

(1) A direction under section 69(2)(c) or (f) (as applied by section 128) may, in particular, require that an application—

(a) be signed by the applicant's employer;

(b) contain or be accompanied by information provided by the applicant's employer or relating to his employment.

(2) The Commission may under section 73(1)(a) (as applied by section 128) require an applicant to obtain information from his employer.

(3) For the purposes of this section a reference to an applicant's employer is a reference to any person for whom the applicant, in the course of a business (but whether or not under a contract of employment)—

(a) provides services,

(b) has provided services, or

(c) intends to provide services.

(4) Neither this section nor any other provision of this Act shall be treated as preventing a person who is not employed from applying for a personal licence.

Commencement Information

I156 S. 130 in force at 1.1.2007 for specified purposes by S.I. 2006/3272, art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

I157 S. 130 in force at 1.9.2007 in so far as not already in force by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

131 Duration

A personal licence shall continue to have effect unless and until it ceases to have effect in accordance with section 113, 114, 115 or 119 (as applied by section 128).

Commencement Information

I158 S. 131 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

132 Fees

(1) Section 100 shall not have effect in relation to personal licences.

(2) The Secretary of State may make regulations requiring the holder of a personal licence to pay to the Commission specified fees in respect of specified periods during which the licence is held.

(3) Regulations under this section may, in particular, make different provision for—
  (a) different kinds of licence, or
  (b) different circumstances.

(4) In its application to this part by virtue of section 128, the reference in section 119(3) to failure to pay an annual fee shall be construed as a reference to failure to comply with regulations under this section.

Commencement Information
I159 S. 132 in force at 1.1.2007 by S.I. 2006/3272, art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

133 Multiple licences

(1) The Commission may not issue a personal licence to an individual who already holds one.

(2) But a personal licence may authorise the performance of more than one function.

Commencement Information
I160 S. 133 in force at 1.1.2007 by S.I. 2006/3272, art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

134 Production of licence

(1) A constable or enforcement officer may under section 108 (as applied by section 128) require the individual who holds a personal licence to produce the licence—
  (a) within a specified period,
  (b) while the individual is carrying on a licensed activity, immediately, or
  (c) while the individual is on premises in respect of which a premises licence has effect, immediately.

(2) A licensee commits an offence if he fails without reasonable excuse to comply with a requirement under subsection (1).

(3) A person guilty of an offence under subsection (2) shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

Modifications etc. (not altering text)
C53 S. 134 modified (1.1.2007) by The Gambling Act 2005 (Commencement No. 6 and Transitional Provisions) Order 2006 (S.I. 2006/3272), art. 1(1), Sch. 4 paras. 44, **47**

Commencement Information
I161 S. 134 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

135 Review

Section 116(1) shall not apply in relation to personal licences.

Commencement Information

I162 S. 135 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

136 Disqualification

(1) A court which may order the forfeiture of an individual's personal licence under section 115 (as applied by section 128) may, whether or not it makes an order for forfeiture, make an order disqualifying the individual from holding a personal licence for a specified period, not exceeding ten years, beginning with the date of the order.

(2) The Commission shall not issue a personal licence to a person while a disqualification order under this section has effect in respect of him.

(3) Subsections (2) to (5) of section 115 shall have effect in relation to an order under this section (and in relation to a licence held by the person disqualified) as they have effect in relation to an order under that section (and in relation to the licence forfeited).

Commencement Information

I163 S. 136 in force at 1.1.2007 by S.I. 2006/3272, art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

137 Notification of operating licensee

(1) This section applies where the Commission—

(a) suspends a personal licence under section 118 (as applied by section 128),

(b) revokes a personal licence under section 119 (as applied by section 128),

(c) is informed by a court of the making of a forfeiture order in respect of a personal licence under section 115 (as applied by section 128), or

(d) is informed by a court of the making of a disqualification order under section 136.

(2) If the Commission believes that the holder of the personal licence, or the subject of the disqualification order, is providing services to the holder of an operating licence in connection with the licensed activities, the Commission shall as soon as is reasonably practicable notify the holder of the operating licence of the matter specified in subsection (1).

Commencement Information

I164 S. 137 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

138 Conviction

(1) This section applies if the holder of a personal licence is convicted of a relevant offence by or before a court (whether inside or outside Great Britain).

(2) The holder of any relevant operating licence shall notify the Commission of the conviction, and of any sentence passed in respect of it, as soon as is reasonably practicable after becoming aware of it.

(3) A person commits an offence if he fails without reasonable excuse to comply with subsection (2).

(4) A person guilty of an offence under subsection (3) shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(5) For the purposes of subsection (2) an operating licence is relevant if the holder of the personal licence acts in connection with activities authorised by the operating licence.

(6) The duty under subsection (2) is in addition to any duty of the holder of the personal licence under section 109 (as applied by section 128).

Modifications etc. (not altering text)

C54 S. 138 modified (1.1.2007) by The Gambling Act 2005 (Commencement No. 6 and Transitional Provisions) Order 2006 (S.I. 2006/3272), art. 1(1), Sch. 4 paras. 44, **47**

Commencement Information

I165 S. 138 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

139 Breach of personal licence condition

(1) This section applies where—

(a) a condition attached to an operating licence includes provision for a personal licence in accordance with section 80,

(b) an individual who holds a personal licence under this Part acts in the course of or in connection with any of the activities authorised by the operating licence, and

(c) the individual's action is not in accordance with the terms and conditions of the personal licence.

(2) The individual commits an offence.

(3) The individual may be proceeded against for the offence under subsection (2) whether or not the holder of the operating licence is proceeded against for an offence under section 33 (by reason of a breach of the condition under section 80).

(4) An individual guilty of an offence under this section shall be liable on summary conviction to—

(a) imprisonment for a term not exceeding 51 weeks,

(b) a fine not exceeding level 5 on the standard scale, or

(c) both.

(5) In the application of subsection (4) to Scotland the reference to 51 weeks shall have effect as a reference to six months.

Status: *Point in time view as at 25/05/2018. This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Gambling Act 2005. (See end of Document for details)*

Modifications etc. (not altering text)

C55 S. 139 modified (1.1.2007) by The Gambling Act 2005 (Commencement No. 6 and Transitional Provisions) Order 2006 (S.I. 2006/3272), art. 1(1), Sch. 4 paras. 44, **47**

Commencement Information

I166 S. 139 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

PART 7

OPERATING AND PERSONAL LICENCES: APPEALS

[F26 140 Definition of "the Tribunal"

In this Part "the Tribunal" means the First-tier Tribunal.]

Textual Amendments

F26 S. 140 substituted (18.1.2010) by The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), art. 1(1), **Sch. 2 para. 94** (with Sch. 5)

Commencement Information

I167 S. 140 in force at 1.1.2007 by S.I. 2006/3272, art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

141 Appeal to Tribunal

(1) Where the Commission determines an application under section 69 or 112 (including either of those sections as applied by section 128) for the issue or renewal of an operating licence or a personal licence, the applicant may appeal to the Tribunal.

(2) Where the Commission attaches a condition to a licence under section 77 (including that section as applied by section 128) the licensee may appeal to the Tribunal.

(3) Where the Commission determines an application under section 102(2)(b) the applicant may appeal to the Tribunal.

(4) Where the Commission determines an application under section 104 (including that section as applied by section 128) the applicant may appeal to the Tribunal.

(5) Where the Commission gives a notice under section 114(1)(b) (including that section as applied by section 128) the licensee may appeal to the Tribunal.

(6) Where the Commission takes action, or determines to take action, under section 117 (including that section as applied by section 128) in respect of a licence, the licensee may appeal to the Tribunal.

(7) Where the Commission takes action, or determines to take action, under section 118 (including that section as applied by section 128) in respect of a licence, the licensee may appeal to the Tribunal.

(8) Where the Commission takes action, or determines to take action, under section 119 (including that section as applied by section 128) in respect of a licence, the licensee may appeal to the Tribunal.

(9) Where the Commission gives a notice imposing a penalty on a licensee under section 121(4) (including that section as applied by section 128) the licensee may appeal to the Tribunal.

Modifications etc. (not altering text)

C56 S. 141 modified (1.1.2007) by The Gambling Act 2005 (Commencement No. 6 and Transitional Provisions) Order 2006 (S.I. 2006/3272), art. 1(1), **Sch. 4 para. 48(10)**

Commencement Information

I168 S. 141 in force at 1.1.2007 by S.I. 2006/3272, art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

[F27]142 Timing

. . . . . .

Textual Amendments

F27 S. 142 omitted (18.1.2010) by virtue of The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), art. 1(1), **Sch. 2 para. 95** (with Sch. 5)

[F28]143 Appeal from Tribunal

. . . . . .

Textual Amendments

F28 S. 143 omitted (18.1.2010) by virtue of The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), art. 1(1), **Sch. 2 para. 96** (with Sch. 5)

144 Powers of Tribunal

(1) On an appeal under section 141 against a decision or action taken by the Commission the Tribunal may—

(a) affirm the Commission's decision or action;

(b) quash the Commission's decision or action in whole or in part;

(c) substitute for all or part of the Commission's decision or action another decision or action of a kind that the Commission could have taken;

(d) add to the Commission's decision or action a decision or action of a kind that the Commission could have taken;

(e) remit a matter to the Commission (generally, or for determination in accordance with a finding made or direction given by the Tribunal);

(f) reinstate a lapsed or revoked licence.

Status: *Point in time view as at 25/05/2018. This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Gambling Act 2005. (See end of Document for details)*

(2) In determining an appeal instituted out of time under **[**[F29]Tribunal Procedure Rules**]** or following a direction under section 145(2) the Tribunal may, in addition to the matters specified in subsection (1) above, make any order that it thinks appropriate.

(3) In determining an appeal the Tribunal shall have regard to any relevant provision of a code of practice issued by the Commission under section 24.

(4) In determining an appeal the Tribunal may take account of evidence which was not available to the Commission.

(5) Section 141 applies to a decision or action of the Commission following remittal under subsection (1)(e) above.

Textual Amendments

F29 Words in s. 144(2) substituted (18.1.2010) by The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), art. 1(1), **Sch. 2 para. 97** (with Sch. 5)

Commencement Information

I169 S. 144 in force at 1.1.2007 by S.I. 2006/3272, art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

145 Stay pending appeal

(1) A decision or other action under Part 5 or 6 shall have no effect while an appeal under section 141—

(a) could be brought (ignoring the possibility of an appeal out of time under **[**[F30]Tribunal Procedure Rules**]**), or

(b) has been brought and has not yet been either finally determined or abandoned.

(2) But when making a decision or taking other action under Part 5 or 6 the Commission may direct that subsection (1) shall not apply.

Textual Amendments

F30 Words in s. 145(1)(a) substituted (18.1.2010) by The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), art. 1(1), **Sch. 2 para. 98** (with Sch. 5)

Commencement Information

I170 S. 145 in force at 1.1.2007 by S.I. 2006/3272, art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

146 **[**[F31]Tribunal Procedure Rules**]**

[[F32](1) Tribunal Procedure Rules may make provision—

(a) regulating the exercise of a right of appeal under this Act to the Tribunal;

(b) for the suspension by the Tribunal of decisions of the Commission (whether or not they have already taken effect).**]**

[F33](2) . . . . . .

(3) **[**[F34]In the case of proceedings before the Tribunal under this Act, Tribunal Procedure Rules may**]** provide—

(a) that a person commits an offence if without reasonable excuse he fails to comply with a requirement of a specified kind imposed by or in accordance with the rules, and

(b) that a person guilty of the offence shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Textual Amendments

F31 S. 146 heading substituted (18.1.2010) by The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), art. 1(1), **Sch. 2 para. 99(a)** (with Sch. 5)

F32 S. 146(1) substituted (18.1.2010) by The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), art. 1(1), **Sch. 2 para. 99(b)** (with Sch. 5)

F33 S. 146(2) omitted (18.1.2010) by virtue of The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), art. 1(1), **Sch. 2 para. 99(c)** (with Sch. 5)

F34 Words in s. 146(3) substituted (18.1.2010) by The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), art. 1(1), **Sch. 2 para. 99(d)** (with Sch. 5)

Commencement Information

I171 S. 146 in force at 1.1.2007 by S.I. 2006/3272, art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

F35 147 Fees

. . . . . .

Textual Amendments

F35 S. 147 omitted (18.1.2010) by virtue of The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), art. 1(1), **Sch. 2 para. 100** (with Sch. 5)

148 Legal assistance

(1) The Lord Chancellor may by regulations establish a scheme for the provision of legal assistance to appellants to the Tribunal.

(2) Regulations under subsection (1) may, in particular—

(a) specify the kinds of assistance that may be provided;

(b) specify the classes of person by whom assistance may be provided;

F36(c) . . . . . .

F36(d) . . . . . .

(e) enable the Tribunal to determine eligibility for assistance by reference to criteria specified in the regulations;

(f) make provision for an appeal against refusal of assistance;

(g) enable assistance to be granted subject to conditions or restrictions imposed by the Tribunal (which may, in particular, include conditions requiring—

(i) a person receiving assistance to contribute towards its cost;

(ii) a person who received assistance to defray all or part of its cost in specified circumstances);

(h) enable the Tribunal to vary or revoke a decision that assistance should be provided;

(i) include provision for enforcement of a duty of payment arising under the regulations (which may, in particular, confer jurisdiction on a court).

(3) Regulations under subsection (1) may, in particular, apply generally or only—

(a) in relation to specified kinds of appeal;

(b) in specified circumstances.

(4) The Lord Chancellor shall defray the costs of assistance provided under the scheme (subject to subsection (2)(g)).

(5) Regulations under this section shall have no effect in relation to proceedings heard or to be heard by the Tribunal sitting in Scotland.

Textual Amendments

F36 S. 148(2)(c)(d) omitted (18.1.2010) by virtue of The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), art. 1(1), **Sch. 2 para. 101** (with Sch. 5)

Commencement Information

I172 S. 148 in force at 1.1.2007 by S.I. 2006/3272, art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

[F37]149 Enforcement of costs orders

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Textual Amendments

F37 S. 149 omitted (18.1.2010) by virtue of The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), art. 1(1), **Sch. 2 para. 102** (with Sch. 5)

[F38]PART 8

PREMISES LICENCES

Textual Amendments

F38 Pt. 8 amendment to earlier affecting provision SI 2006/3272 Sch. 4 para. 54-66 (29.4.2007) by Gambling Act 2005 (Commencement and Transitional Provisions) (Amendment) Order 2007 (S.I. 2007/1157), arts. 1(1), **11**

Modifications etc. (not altering text)

C57 Pt. 8 modified (1.1.2007) by The Gambling Act 2005 (Commencement No. 6 and Transitional Provisions) Order 2006 (S.I. 2006/3272), art. 1(1), **Sch. 4 paras. 54-66** (as amended (16.8.2007) by S.I. 2007/2169, art. 11)

C58 Pt. 8 modified by SI 2006/3272 art. 8(1)(3) (as inserted (16.8.2007) by The Gambling Act 2005 (Commencement No. 6 and Transitional Provisions) (Amendment) (No. 2) Order 2007 (S.I. 2007/2169), arts. 1(1), **5**)

The licence

150 Nature of licence

(1) A premises licence is a licence which states that it authorises premises to be used for—
- (a) the operation of a casino (a "casino premises licence"),
- (b) the provision of facilities for the playing of bingo (a "bingo premises licence"),
- (c) making Category B gaming machines available for use (an "adult gaming centre premises licence"),
- (d) making Category C gaming machines available for use (a "family entertainment centre premises licence"), or
- (e) the provision of facilities for betting, whether by making or accepting bets, by acting as a betting intermediary or by providing other facilities for the making or accepting of bets (a "betting premises licence").

(2) A casino premises licence is—
- (a) a "regional casino premises licence" if it relates to a regional casino,
- (b) a "large casino premises licence" if it relates to a large casino, and
- (c) a "small casino premises licence" if it relates to a small casino.

(3) Neither a premises licence nor any provision of this Part disapplies or provides a defence to the offence under section 33.

Modifications etc. (not altering text)

C59 S. 150(1)(c) modified (1.9.2007) by Categories of Gaming Machine Regulations 2007 (S.I. 2007/2158), regs. 1(b), **6(2)**

Commencement Information

I173 S. 150 in force at 21.5.2007 by S.I. 2006/3272, art. 2(2), **Sch. 2** (with arts. 7-11, 7-12, Sch. 4) (as amended by S.I. 2007/1157, arts. 3(3), 4)

151 Form of licence

(1) A premises licence must—
- (a) specify the name of the person to whom it is issued,
- (b) specify a home or business address of that person,
- (c) specify the premises to which it relates,
- (d) specify the activities for which it authorises the premises to be used,
- (e) specify any condition attached by the licensing authority under section 169(1)(a),
- (f) specify any exclusion of a default condition effected by the licensing authority under section 169(1)(b),
- (g) include a plan of the premises, and
- (h) if a period is prescribed under section 191 at the end of which the licence will expire (unless renewed or terminated earlier), specify the period.

(2) The Secretary of State may make regulations about—
- (a) the form of a premises licence, and

Status: *Point in time view as at 25/05/2018. This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Gambling Act 2005. (See end of Document for details)*

(b) the content of a premises licence (which may, in particular, require the inclusion of information about mandatory conditions, default conditions or conditions attached to the licence by virtue of a provision of this Part).

(3) In relation to a premises licence issued in Scotland, subsection (2) shall have effect as if the reference to the Secretary of State were a reference to the Scottish Ministers.

Commencement Information

I174 S. 151 in force at 21.5.2007 by S.I. 2006/3272, art. 2(2), **Sch. 2** (with arts. 7-11, 7-12, Sch. 4) (as amended by S.I. 2007/1157, arts. 3(3), 4)

152 Combined licence, &c.

(1) A premises licence—

(a) may not authorise the use of premises for activities of more than one of the kinds specified in section 150(a) to (e) (subject to sections 172 to 174 and subsection (2) below), and

(b) may not be issued in respect of premises if a premises licence already has effect in relation to the premises (subject to subsection (3)).

(2) Subsection (1)(a) does not apply in the case of a track.

(3) More than one premises licence may have effect in relation to a track provided that—

(a) each licence relates to a specified area of the track, and

(b) not more than one premises licence has effect in relation to any area of the track.

(4) If a person applies for a premises licence in respect of an area of a track ("a subsidiary licence") and a premises licence already has effect in respect of the whole track or a part of the track that includes that area ("the main licence")—

(a) the application for the subsidiary licence must be accompanied by an application under section 187 to vary the main licence so that it does not have effect in relation to the area to which the subsidiary licence is to relate, and

(b) the application for the subsidiary licence may be granted only after, or together with, the grant of the application for variation.

Commencement Information

I175 S. 152 in force at 21.5.2007 by S.I. 2006/3272, art. 2(2), **Sch. 2** (with arts. 7-11, 7-12, Sch. 4) (as amended by S.I. 2007/1157, arts. 3(3), 4)

Licensing authorities' functions

153 Principles to be applied

(1) In exercising their functions under this Part a licensing authority shall aim to permit the use of premises for gambling in so far as the authority think it—

(a) in accordance with any relevant code of practice under section 24,

(b) in accordance with any relevant guidance issued by the Commission under section 25,

(c) reasonably consistent with the licensing objectives (subject to paragraphs (a) and (b)), and

(d) in accordance with the statement published by the authority under section 349 (subject to paragraphs (a) to (c)).

(2) In determining whether to grant a premises licence a licensing authority may not have regard to the expected demand for the facilities which it is proposed to provide.

(3) This section is subject to section 166.

Commencement Information

I176 S. 153 in force at 21.5.2007 by S.I. 2006/3272, art. 2(2), **Sch. 2** (with arts. 7-11, 7-12, Sch. 4) (as amended by S.I. 2007/1157, arts. 3(3), 4)

154 Delegation of licensing authority functions: England and Wales

(1) The functions under this Part of a licensing authority in England and Wales are by virtue of this subsection delegated to the licensing committee of the authority established under section 6 of the Licensing Act 2003 (c. 17).

(2) But—

(a) a licensing authority's functions under section 166 are not delegated by virtue of subsection (1) and may not be delegated by the authority,

(b) a licensing authority's functions under section 212 are not delegated by virtue of subsection (1) but may be delegated by the authority, and

(c) a licensing authority's function under section 349 is not delegated by virtue of subsection (1) and may not be delegated by the authority.

(3) The following provisions of the Licensing Act 2003 shall apply in relation to a function delegated to a licensing committee by virtue of subsection (1) or (2)(b) as they apply in relation to a function delegated under that Act—

(a) section 7(9) (referral back to licensing authority), and

(b) section 10 (sub-delegation).

(4) In the application of section 10(4) of that Act (matters not to be delegated to officer) by virtue of subsection (3) above, the following shall be substituted for the list of functions—

(a) determination of an application for a premises licence in respect of which representations have been made under section 161 (and not withdrawn),

(b) determination of an application for the variation of a premises licence in respect of which representations have been made under section 161 as applied by section 187 (and not withdrawn),

(c) determination of an application for transfer following representations by the Commission,

(d) determination of an application for a provisional statement under section 204 in respect of which representations have been made under section 161 as applied by section 204 (and not withdrawn), and

(e) a review of a premises licence under section 201.

(5) The provisions of section 9 of that Act and regulations under it apply to proceedings of licensing committees and their sub-committees in relation to the exercise of functions under this Part; and for that purpose regulations may, in particular, make provision which applies—

(a) only in relation to functions under that Act,

(b) only in relation to functions under this Part, or

(c) differently in relation to functions under that Act and functions under this Part.

Commencement Information

I177 S. 154(1)(2)(b) in force at 13.11.2006 for specified purposes by S.I. 2006/2964, **art. 2(a)**

I178 S. 154(1)(2)(b) in force at 21.5.2007 in so far as not already in force by S.I. 2006/3272, art. 2(2), **Sch. 2** (with arts. 7-11, 7-12, Sch. 4) (as amended by S.I. 2007/1157, arts. 3(3), 4)

I179 S. 154(2)(a) (c) (3)-(5) in force at 21.5.2007 by S.I. 2006/3272, art. 2(2), **Sch. 2** (with arts. 7-11, 7-12, Sch. 4) (as amended by S.I. 2007/1157, arts. 3(3), 4)

155 Delegation of functions under Part 8: Scotland

[[F39](1) Subject to subsection (2), a licensing authority in Scotland may arrange for the discharge of any of its functions under this Part by–

(a) any member of the authority,

(b) any committee established by the authority,

(c) the clerk of the authority, or

(d) any member of staff provided under paragraph 8(1)(b) of schedule 1 to the Licensing (Scotland) Act 2005 (asp 16).**]**

(2) A licensing authority are not to make any arrangements under subsection (1)—

(a) in relation to their power under section 166 or their function under section 349, or

(b) for the discharge by the clerk of the authority or any **[**[F40]member of staff provided under paragraph 8(1)(b) of schedule 1 to the Licensing (Scotland) Act 2005**]** of any of the authority's functions mentioned in paragraphs (a) to (e) of section 154(4).

(3) The procedures applicable to the proceedings of licensing boards in the exercise or their functions under the Licensing (Scotland) Act **[**[F41]2005**]** apply to the proceedings of those boards in the exercise of their functions under this Part: and for that purpose regulations made by the Scottish Ministers may, in particular, make provision which applies—

(a) only in relation to functions under that Act,

(b) only in relation to functions under this Part, or

(c) differently in relation to functions under that Act and functions under this Part.

Textual Amendments

F39 S. 155(1) substituted (1.9.2009 at 5.00 a.m.) by The Licensing (Scotland) Act 2005 (Consequential Provisions) Order 2009 (S.S.I. 2009/248), **sch. 1 para. 12(4)(a)** (with art. 3)

F40 Words in s. 155(2)(b) substituted (1.9.2009 at 5.00 a.m.) by The Licensing (Scotland) Act 2005 (Consequential Provisions) Order 2009 (S.S.I. 2009/248), **sch. 1 para. 12(4)(b)** (with art. 3)

F41 Word in s. 155(3) substituted (1.9.2009 at 5.00 a.m.) by The Licensing (Scotland) Act 2005 (Consequential Provisions) Order 2009 (S.S.I. 2009/248), **sch. 1 para. 12(4)(c)** (with art. 3)

Modifications etc. (not altering text)

C60 S. 155 applied (S.) (2.11.2007) by Licensed Premises Gaming Machine Permits (Scotland) Regulations 2007 (S.S.I. 2007/505), regs. 1(1), **5**

C61 S. 155 applied (S.) (2.11.2007) by Club Gaming and Club Machine Permits (Scotland) Regulations 2007 (S.S.I. 2007/504), regs. 1(1), **23(2)**

Commencement Information

I180 S. 155 in force at 21.5.2007 by S.I. 2006/3272, art. 2(2), **Sch. 2** (with arts. 7-11, 7-12, Sch. 4) (as amended by S.I. 2007/1157, arts. 3(3), 4)

156 Register

(1) A licensing authority shall—

(a) maintain a register of premises licences issued by the authority together with such other information as may be prescribed,

(b) make the register and information available for inspection by members of the public at all reasonable times, and

(c) make arrangements for the provision of a copy of an entry in the register, or of information, to a member of the public on request.

(2) A licensing authority may refuse to provide a copy of an entry or of information unless the person seeking it pays a reasonable fee specified by the authority.

(3) The Secretary of State may make regulations about—

(a) the form of the register;

(b) the manner in which it is maintained.

(4) The Secretary of State may make regulations—

(a) requiring licensing authorities to give to the Commission specified information about premises licences issued by them,

(b) requiring the Commission to maintain a register of the information provided to it under paragraph (a),

(c) requiring the Commission to grant access to the register to members of the public (without charge),

(d) requiring the Commission to make copies of entries available on request, and on payment of a reasonable fee, to members of the public, and

(e) excusing licensing authorities, wholly or partly, from compliance with subsection (1).

Commencement Information

I181 S. 156 in force at 21.5.2007 by S.I. 2006/3272, art. 2(2), **Sch. 2** (with arts. 7-11, 7-12, Sch. 4) (as amended by S.I. 2007/1157, arts. 3(3), 4)

Status: *Point in time view as at 25/05/2018. This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Gambling Act 2005. (See end of Document for details)*

Other relevant persons

157 Responsible authorities

For the purposes of this Part the following are responsible authorities in relation to premises—

(a) a licensing authority in England and Wales in whose area the premises are wholly or partly situated,

(b) the Commission,

(c) either—

(i) in England and Wales, the chief officer of police for a police area in which the premises are wholly or partly situated, or

(ii) in Scotland, the chief constable of the police force maintained for a police area in which the premises are wholly or partly situated,

(d) the fire and rescue authority for an area in which the premises are wholly or partly situated,

(e) either—

(i) in England and Wales, the local planning authority, in accordance with Part I of the Town and Country Planning Act 1990 (c. 8), for an area in which the premises are wholly or partly situated, or

(ii) in Scotland, the planning authority, in accordance with Part 1 of the Town and Country Planning (Scotland) Act 1997 (c. 8), for an area in which the premises are wholly or partly situated,

[[F42](f) the Scottish Fire and Rescue Service,**]**

(g) an authority which has functions by virtue of an enactment in respect of minimising or preventing the risk of pollution of the environment or of harm to human health in an area in which the premises are wholly or partly situated,

(h) a body which is designated in writing for the purposes of this paragraph, by the licensing authority for an area in which the premises are wholly or partly situated, as competent to advise the authority about the protection of children from harm,

(i) Her Majesty's Commissioners of Customs and Excise, and

(j) any other person prescribed for the purposes of this section by regulations made by the Secretary of State.

Textual Amendments

F42 S. 157(f) substituted (E.W.N.I) (1.4.2013) by The Police and Fire Reform (Scotland) Act 2012 (Consequential Provisions and Modifications) Order 2013 (S.I. 2013/602), art. 1(2), **Sch. 1 para. 8**; and substituted (S.) (1.4.2013) by Police and Fire Reform (Scotland) Act 2012 (asp 8), s. 129(2), **sch. 7 para. 69**; S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)

Commencement Information

I182 S. 157 in force at 21.5.2007 by S.I. 2006/3272, art. 2(2), **Sch. 2** (with arts. 7-11, 7-12, Sch. 4) (as amended by S.I. 2007/1157, arts. 3(3), 4)

158 Interested party

For the purposes of this Part a person is an interested party in relation to a premises licence or in relation to an application for or in respect of a premises licence if, in the opinion of the licensing authority which issues the licence or to which the application is made, the person—

(a) lives sufficiently close to the premises to be likely to be affected by the authorised activities,

(b) has business interests that might be affected by the authorised activities, or

(c) represents persons who satisfy paragraph (a) or (b).

Commencement Information

I183 S. 158 in force at 21.5.2007 by S.I. 2006/3272, art. 2(2), **Sch. 2** (with arts. 7-11, 7-12, Sch. 4) (as amended by S.I. 2007/1157, arts. 3(3), 4)

Application for licence

159 Making of application

(1) A person may apply to a licensing authority for a premises licence to be issued to him authorising the use of premises to carry on an activity listed in section 37(1).

(2) An application must be made to a licensing authority in whose area the premises are wholly or partly situated.

(3) An application may be made only by a person who—

(a) holds an operating licence which authorises him to carry on the activity in respect of which the premises licence is sought, or

(b) has made an application, which has not yet been determined, for an operating licence which authorises him to carry on the activity in respect of which the premises licence is sought.

(4) But subsection (3) does not apply to an application for a premises licence which authorises a track to be used for accepting bets (and which does not also, otherwise than by virtue of section 172, authorise it to be used for another purpose).

(5) An application may be made only by a person who has a right to occupy the premises to which the application relates.

(6) An application must—

(a) be made in the prescribed form and manner,

(b) contain or be accompanied by the prescribed information or documents, and

(c) be accompanied by the prescribed fee.

(7) Regulations prescribing a matter for the purposes of this section may, in particular, make different provision for—

(a) applications in respect of different classes of activity, or

(b) different circumstances.

(8) In this section “prescribed” means—

(a) in relation to applications to authorities in England and Wales, prescribed by regulations made by the Secretary of State, and

(b) in relation to applications to authorities in Scotland, prescribed by regulations made by the Scottish Ministers.

Commencement Information

I184 S. 159 in force at 21.5.2007 for specified purposes by S.I. 2006/3272, art. 2(2)(3), **Sch. 2, Sch. 3** (with arts. 7-11, 7-12, Sch. 4) (as amended by S.I. 2007/1157, arts. 3(3), 4)

I185 S. 159 in force at 21.5.2007 for specified purposes by S.I. 2006/3272, art. 2(3), **Sch. 3** (with arts. 7-11, 7-12, Sch. 4) (as amended by SI 2007/1157, art. 3(3), 4(2))

I186 S. 159 in force at 1.9.2007 for specified purposes by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

I187 S. 159 in force at 20.5.2008 for specified purposes by S.I. 2008/1326, art. 2, **Sch.**

160 Notice of application

(1) The Secretary of State may make regulations requiring an applicant for a premises licence—

(a) to publish notice of his application;

(b) to give notice of his application to the responsible authorities in relation to the premises;

(c) to give notice of his application to other persons.

(2) Regulations under subsection (1) shall include provision—

(a) about the manner and form in which notice is to be published or given,

(b) about the period of time within which notice is to be published or given, and

(c) for the consequences of failure to comply with the regulations.

(3) In so far as this section has effect in relation to applications to authorities in Scotland, the reference to the Secretary of State shall have effect as a reference to the Scottish Ministers.

Commencement Information

I188 S. 160 in force at 21.5.2007 for specified purposes by S.I. 2006/3272, art. 2(3), **Sch. 3** (with arts. 7-11, 7-12, Sch. 4) (as amended by SI 2007/1157, art. 3(3), 4(2))

I189 S. 160 in force at 21.5.2007 for specified purposes by S.I. 2006/3272, art. 2(2)(3), **Sch. 2, Sch. 3** (with arts. 7-11, 7-12, Sch. 4) (as amended by S.I. 2007/1157, arts. 3(3), 4)

I190 S. 160 in force at 1.9.2007 for specified purposes by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

I191 S. 160 in force at 20.5.2008 for specified purposes by S.I. 2008/1326, art. 2, **Sch.**

161 Representations

(1) Where an application is made to a licensing authority for a premises licence, an interested party or responsible authority in relation to the premises may make representations in writing to the licensing authority.

(2) Representations under subsection (1) must be made within such period as the Secretary of State shall prescribe by regulations.

(3) In so far as this section has effect in relation to applications to authorities in Scotland, the reference to the Secretary of State shall have effect as a reference to the Scottish Ministers.

Commencement Information

I192 S. 161 in force at 21.5.2007 for specified purposes by S.I. 2006/3272, art. 2(2)(3), **Sch. 2, Sch. 3** (with arts. 7-11, 7-12, Sch. 4) (as amended by S.I. 2007/1157, arts. 3(3), 4)

I193 S. 161 in force at 21.5.2007 for specified purposes by S.I. 2006/3272, art. 2(3), **Sch. 3** (with arts. 7-11, 7-12, Sch. 4) (as amended by SI 2007/1157, art. 3(3), 4(2))

I194 S. 161 in force at 1.9.2007 for specified purposes by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

I195 S. 161 in force at 20.5.2008 for specified purposes by S.I. 2008/1326, art. 2, **Sch.**

Determination of application

162 Requirement for hearing

(1) In determining an application for a premises licence a licensing authority must hold a hearing if—

(a) an interested party or responsible authority has made (and not withdrawn) representations about the application under section 161,

(b) the authority propose to attach a condition to the licence under section 169(1)(a), or

(c) the authority propose to exclude under section 169(1)(b) a condition that would otherwise be attached to the licence under section 168.

(2) But a licensing authority may determine an application for a premises licence without a hearing despite subsection (1) with the consent of—

(a) the applicant, and

(b) any interested party or responsible authority who has made (and not withdrawn) representations about the application under section 161.

(3) A licensing authority may also determine an application for a premises licence without a hearing despite subsection (1)(a) if the authority think that the representations made under section 161—

(a) are vexatious,

(b) are frivolous, or

(c) will certainly not influence the authority's determination of the application.

(4) If a licensing authority propose to determine an application in reliance on subsection (3) they shall as soon as is reasonably practicable notify any person who made representations under section 161.

Commencement Information

I196 S. 162 in force at 21.5.2007 for specified purposes by S.I. 2006/3272, art. 2(2)(3), **Sch. 2, Sch. 3** (with arts. 7-11, 7-12, Sch. 4) (as amended by S.I. 2007/1157, arts. 3(3), 4)

I197 S. 162 in force at 21.5.2007 for specified purposes by S.I. 2006/3272, art. 2(3), **Sch. 3** (with arts. 7-11, 7-12, Sch. 4) (as amended by SI 2007/1157, art. 3(3), 4(2))

I198 S. 162 in force at 1.9.2007 for specified purposes by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

I199 S. 162 in force at 20.5.2008 for specified purposes by S.I. 2008/1326, art. 2, **Sch.**

163 Determination of application

(1) On considering an application for a premises licence (whether at a hearing or not) a licensing authority shall—

(a) grant it, or

(b) reject it.

(2) A licensing authority shall not determine an application for a premises licence made in reliance on section 159(3)(b) until the relevant operating licence has been issued (in a form which authorises the applicant to carry on the activity in respect of which the premises licence is sought).

Modifications etc. (not altering text)

C62 S. 163 modified (1.9.2007) by Gambling Act 2005 (Horserace Totalisator Board) Order 2007 (S.I. 2007/2102), arts. 1, **4**

Commencement Information

I200 S. 163 in force at 21.5.2007 for specified purposes by S.I. 2006/3272, art. 2(2)(3), **Sch. 2, Sch. 3** (with arts. 7-11, 7-12, Sch. 4) (as amended by S.I. 2007/1157, arts. 3(3), 4)

I201 S. 163 in force at 21.5.2007 for specified purposes by S.I. 2006/3272, art. 2(3), **Sch. 3** (with arts. 7-11, 7-12, Sch. 4) (as amended by SI 2007/1157, art. 3(3), 4(2))

I202 S. 163 in force at 1.9.2007 for specified purposes by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

I203 S. 163 in force at 20.5.2008 for specified purposes by S.I. 2008/1326, art. 2, **Sch.**

164 Grant of application

(1) Where a licensing authority grant an application for a premises licence they shall as soon as is reasonably practicable—

(a) give notice of the grant to —

(i) the applicant,

(ii) the Commission,

(iii) any person who made representations about the application under section 161,

(iv) in England and Wales, the chief officer of police for any area in which the premises are wholly or partly situated,

(v) in Scotland, the chief constable of the police force maintained for a police area in which the premises are wholly or partly situated, and

(vi) Her Majesty's Commissioners of Customs and Excise,

(b) issue a premises licence to the applicant, and

(c) give the applicant a summary of the terms and conditions of the licence in the prescribed form.

(2) A notice under subsection (1)(a)—

(a) must be in the prescribed form,

(b) if the licensing authority have attached a condition to the licence under section 169(1)(a) or excluded under section 169(1)(b) a condition that would otherwise have attached by virtue of section 168, must give the authority's reasons, and

(c) if representations were made about the application under section 161, must give the authority's response to the representations.

(3) In this section "prescribed" means—

(a) in relation to authorities in England and Wales, prescribed by regulations made by the Secretary of State, and

(b) in relation to authorities in Scotland, prescribed by regulations made by the Scottish Ministers.

Commencement Information

I204 S. 164 in force at 21.5.2007 for specified purposes by S.I. 2006/3272, art. 2(2)(3), **Sch. 2, Sch. 3** (with arts. 7-11, 7-12, Sch. 4) (as amended by S.I. 2007/1157, arts. 3(3), 4)

I205 S. 164 in force at 21.5.2007 for specified purposes by S.I. 2006/3272, art. 2(3), **Sch. 3** (with arts. 7-11, 7-12, Sch. 4) (as amended by SI 2007/1157, art. 3(3), 4(2))

I206 S. 164 in force at 1.9.2007 for specified purposes by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

I207 S. 164 in force at 20.5.2008 for specified purposes by S.I. 2008/1326, art. 2, **Sch.**

165 Rejection of application

(1) Where a licensing authority reject an application for a premises licence they shall as soon as is reasonably practicable give notice of the rejection to—

(a) the applicant,

(b) the Commission,

(c) any person who made representations about the application under section 161,

(d) either—

(i) in England and Wales, the chief officer of police for any area in which the premises are wholly or partly situated, or

(ii) in Scotland, the chief constable of the police force maintained for a police area in which the premises are wholly or partly situated, and

(e) Her Majesty's Commissioners of Customs and Excise.

(2) A notice under subsection (1)—

(a) must be in the prescribed form, and

(b) must give the authority's reasons for rejecting the application.

(3) In this section "prescribed" means—

Status: *Point in time view as at 25/05/2018. This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Gambling Act 2005. (See end of Document for details)*

(a) in relation to authorities in England and Wales, prescribed by regulations made by the Secretary of State, and

(b) in relation to authorities in Scotland, prescribed by regulations made by the Scottish Ministers.

Commencement Information

I208 S. 165 in force at 21.5.2007 for specified purposes by S.I. 2006/3272, art. 2(3), **Sch. 3** (with arts. 7-11, 7-12, Sch. 4) (as amended by SI 2007/1157, art. 3(3), 4(2))

I209 S. 165 in force at 21.5.2007 for specified purposes by S.I. 2006/3272, art. 2(2)(3), **Sch. 2, Sch. 3** (with arts. 7-11, 7-12, Sch. 4) (as amended by S.I. 2007/1157, arts. 3(3), 4)

I210 S. 165 in force at 1.9.2007 for specified purposes by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

I211 S. 165 in force at 20.5.2008 for specified purposes by S.I. 2008/1326, art. 2, **Sch.**

166 Resolution not to issue casino licences

(1) A licensing authority may resolve not to issue casino premises licences.

(2) In passing a resolution under subsection (1) a licensing authority may have regard to any principle or matter.

(3) A resolution under subsection (1)—

(a) must apply to the issue of casino premises licences generally,

(b) must specify the date on which it takes effect,

(c) may be revoked by a further resolution, and

(d) shall lapse at the end of the period of three years beginning with the date on which it takes effect (without prejudice to the ability to pass a new resolution).

(4) A resolution under subsection (1)—

(a) may be passed whether or not the licensing authority has already issued casino premises licences,

(b) shall have no effect in relation to a casino premises licence issued before the resolution takes effect,

(c) shall have no effect in relation to premises in respect of which a provisional statement relating to the operation of a casino is in force when the resolution takes effect,

(d) shall have no effect in relation to anything converted into a casino premises licence by virtue of Schedule 18,

(e) shall not affect the issuing of a casino premises licence in accordance with a requirement by virtue of Schedule 18, and

(f) may not be taken into account in conducting a review of a casino premises licence under section 201.

(5) A resolution under subsection (1) shall be published by being included in a statement or revision under section 349.

(6) Section 153 is subject to this section.

(7) The Secretary of State may by order require a licensing authority to consider whether or not to pass a resolution under subsection (1).

(8) An order under subsection (7) may—

(a) be directed to a particular licensing authority or to a class or description of licensing authority;

(b) require the licensing authority to consult such persons or classes of persons as they think are likely to be affected by the resolution (having regard to any guidance given by the Secretary of State);

(c) require the licensing authority to take other procedural steps;

(d) specify a period within which the consideration must take place;

(e) require consideration once or at specified intervals.

Commencement Information

I212 S. 166 in force at 31.3.2006 by S.I. 2006/631, **art. 2(1)(a)**

Conditions

167 Mandatory conditions

(1) The Secretary of State may by regulations provide for a specified condition to be attached to premises licences.

(2) Regulations under this section may, in particular—

(a) make provision which applies generally, only to premises licences in a specified class or only in specified circumstances;

(b) make different provision for different classes of licence or for different circumstances.

(3) In relation to premises licences issued in Scotland subsection (1) shall have effect as if the reference to the Secretary of State were a reference to the Scottish Ministers.

Commencement Information

I213 S. 167 in force at 21.5.2007 by S.I. 2006/3272, art. 2(2), **Sch. 2** (with arts. 7-11, 7-12, Sch. 4) (as amended by S.I. 2007/1157, arts. 3(3), 4)

168 Default conditions

(1) The Secretary of State may by regulations prescribe for a specified condition to be attached to any premises licence unless excluded by the authority who issue the licence.

(2) Regulations under this section may, in particular—

(a) make provision which applies generally, only to premises licences in a specified class or only in specified circumstances;

(b) make different provision for different classes of licence or for different circumstances.

(3) In relation to a premises licence issued by an authority in Scotland subsection (1) shall have effect as if the reference to the Secretary of State were a reference to the Scottish Ministers.

Commencement Information

I214 S. 168 in force at 21.5.2007 by S.I. 2006/3272, art. 2(2), **Sch. 2** (with arts. 7-11, 7-12, Sch. 4) (as amended by S.I. 2007/1157, arts. 3(3), 4)

169 Conditions imposed or excluded by licensing authority

(1) Where a licensing authority issue a premises licence they may—

(a) attach a condition to the licence;

(b) exclude a condition that would otherwise be attached to the licence by virtue of section 168.

(2) A condition attached to the licence under subsection (1)(a) may, in particular, address a matter addressed by a condition excluded under subsection (1)(b).

(3) A condition attached to the licence under subsection (1)(a) may apply in relation to the premises generally or only in relation to a specified part of the premises.

(4) A licensing authority may not attach a condition to a premises licence which prevents compliance with a condition of the operating licence which authorises the holder to carry out the activity in respect of which the premises licence is granted.

Commencement Information

I215 S. 169 in force at 21.5.2007 by S.I. 2006/3272, art. 2(2), **Sch. 2** (with arts. 7-11, 7-12, Sch. 4) (as amended by S.I. 2007/1157, arts. 3(3), 4)

170 Membership

A premises licence may not be subject to a condition (whether imposed by virtue of section 167, 168 or 169)—

(a) requiring all or part of the premises, or any activity taking place on the premises, to be operated or carried on as a club or other body with membership, or

(b) restricting use of any part of the premises wholly or partly by reference to membership of a club or other body.

Commencement Information

I216 S. 170 in force at 21.5.2007 by S.I. 2006/3272, art. 2(2), **Sch. 2** (with arts. 7-11, 7-12, Sch. 4) (as amended by S.I. 2007/1157, arts. 3(3), 4)

171 Stakes, &c.

(1) A premises licence may not be subject to a condition (whether imposed by virtue of section 167, 168 or 169) imposing limits on—

(a) stakes,

(b) fees,

(c) winnings, or

(d) prizes.

(2) The prohibition in subsection (1)(b) shall not prevent the imposition by virtue of section 167 of a condition about fees for admission to a track.

Commencement Information

I217 S. 171 in force at 21.5.2007 by S.I. 2006/3272, art. 2(2), **Sch. 2** (with arts. 7-11, 7-12, Sch. 4) (as amended by S.I. 2007/1157, arts. 3(3), 4)

Specific cases

172 Gaming machines

(1) An adult gaming centre premises licence shall, by virtue of this section, authorise the holder—

[[F43](a) to make available for use on the premises a number of Category B gaming machines not exceeding 20 per cent of the total number of gaming machines which are available for use on the premises,**]**

(b) to make any number of Category C gaming machines available for use on the premises, and

(c) to make any number of Category D gaming machines available for use on the premises.

(2) A family entertainment centre premises licence shall, by virtue of this section, authorise the holder—

(a) to make any number of Category C gaming machines available for use on the premises, and

(b) to make any number of Category D gaming machines available for use on the premises.

(3) A casino premises licence for a regional casino using at least 40 gaming tables shall by virtue of this section authorise the holder to make gaming machines available for use on the premises provided that—

(a) each gaming machine is of Category A, B, C or D, and

(b) the number of gaming machines—

(i) is not more than 25 times the number of gaming tables used in the casino, and

(ii) is not more than 1250.

(4) A casino premises licence for a large casino using at least one gaming table, or for a regional casino using fewer than 40 gaming tables, shall by virtue of this section authorise the holder to make gaming machines available for use on the premises provided that—

Status: *Point in time view as at 25/05/2018. This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Gambling Act 2005. (See end of Document for details)*

(a) each gaming machine is of Category B, C or D, and
(b) the number of gaming machines—
(i) is not more than 5 times the number of gaming tables used in the casino, and
(ii) is not more than 150.

(5) A casino premises licence for a small casino using at least one gaming table shall by virtue of this section authorise the holder to make gaming machines available for use on the premises provided that—
(a) each gaming machine is of Category B, C or D, and
(b) the number of gaming machines—
(i) is not more than twice the number of gaming tables used in the casino, and
(ii) is not more than 80.

(6) The Secretary of State may by regulations—
(a) define "gaming table" for the purposes of subsections (3) to (5);
(b) provide that a gaming table is to be treated as being used in a casino for the purposes of those subsections only if used—
(i) for a specified purpose,
(ii) in specified circumstances, and
(iii) to a specified extent;
(c) provide for a number of tables are to be treated as if they were a single gaming table in specified circumstances.

(7) A bingo premises licence shall, by virtue of this section, authorise the holder—
[[F44](a) to make available for use on the premises a number of Category B gaming machines not exceeding 20 per cent of the total number of gaming machines which are available for use on the premises,**]**
(b) to make any number of Category C gaming machines available for use on the premises, and
(c) to make any number of Category D gaming machines available for use on the premises.

(8) A betting premises licence shall, by virtue of this section, authorise the holder to make up to four gaming machines, each of which must be of Category B, C or D, available for use.

(9) But subsection (8) applies to a betting premises licence in respect of a track only if the holder also holds a pool betting operating licence.

(10) A premises licence may not (whether by way of condition or otherwise)—
(a) make provision about the number or categories of gaming machine that may be made available for use that contradicts a provision of this section,
(b) make provision that contradicts a provision of regulations under section 236, 240 or 241, or
(c) make provision of a kind prohibited by regulations under any of those sections.

(11) The **[**[F45]appropriate Minister**]** may by order amend a provision of this section so as to vary—
(a) the number of machines authorised by a specified kind of premises licence;

(b) the category of machines authorised by a specified kind of premises licence.

[[F46](12) In subsection (11) "the appropriate Minister" means—

(a) the Scottish Ministers, so far as, in the case of a betting premises licence in respect of premises in Scotland and not in respect of a track, the order varies—

(i) the number of gaming machines authorised for which the maximum charge for use is more than £10, or

(ii) whether such machines are authorised;

[[F47](aa) the Welsh Ministers, so far as, in the case of a betting premises licence in respect of premises in Wales and not in respect of a track, the order varies—

(i) the number of gaming machines authorised for which the maximum charge for use is more than £10, or

(ii) whether such machines are authorised;]

(b) otherwise, the Secretary of State.]

Textual Amendments

F43 S. 172(1)(a) substituted (13.7.2011) by The Gambling Act 2005 (Gaming Machines in Adult Gaming Centres and Bingo Premises) Order 2011 (S.I. 2011/1710), arts. 1, **2** (with arts. 4, 5)

F44 S. 172(7)(a) substituted (13.7.2011) by The Gambling Act 2005 (Gaming Machines in Adult Gaming Centres and Bingo Premises) Order 2011 (S.I. 2011/1710), arts. 1, **3** (with arts. 4, 5)

F45 Words in s. 172(11) substituted (23.5.2016) by Scotland Act 2016 (c. 11), **ss. 52(3)**, 72(7) (with s. 52(6))

F46 S. 172(12) inserted (23.5.2016) by Scotland Act 2016 (c. 11), **ss. 52(4)**, 72(7) (with s. 52(6))

F47 S. 172(12)(aa) inserted (1.4.2018) by Wales Act 2017 (c. 4), **ss. 58(1)**, 71(4) (with s. 58(3), Sch. 7 paras. 1, 6); S.I. 2017/1179, reg. 3(l)

Modifications etc. (not altering text)

C63 S. 172 modified (1.9.2007) by Categories of Gaming Machine Regulations 2007 (S.I. 2007/2158), regs. 1(b), **6(3)**

Commencement Information

I218 S. 172 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

173 Virtual gaming

(1) The kinds of premises licence specified in subsection (2) shall by virtue of this section authorise the holder to make facilities available for betting on the outcome of a virtual game, race, competition or other event or process.

(2) Those kinds of licence are—

(a) a casino premises licence, and

(b) a betting premises licence.

Commencement Information

I219 S. 173 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

Status: *Point in time view as at 25/05/2018. This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Gambling Act 2005. (See end of Document for details)*

174 Casino premises licence

(1) A casino premises licence may be issued only in respect of—
- (a) a regional casino,
- (b) a large casino, or
- (c) a small casino.

(2) A casino premises licence shall, by virtue of this section and subject to subsections (3) and (4), authorise the holder to use the premises to make available any number of games of chance other than casino games.

(3) A casino premises licence shall, by virtue of this subsection and subject to subsection (4), authorise the holder, and any person authorised by him in writing, to use the premises for the provision of facilities for—
- (a) bingo,
- (b) betting, or
- (c) both.

(4) In respect of a small casino, subsection (3) shall not apply in so far as it authorises bingo.

(5) The Secretary of State may by order repeal subsection (4) (and this subsection).

(6) Regulations under section 167 shall, in particular, make provision in relation to casino premises licences imposing limits in respect of machines of a kind that would be gaming machines but for section 235(2)(i); and the limits may, in particular, operate by reference to—
- (a) the number of machines, or
- (b) the number of players that the machines are designed or adapted to accommodate.

(7) Regulations under section 167 or 168 may, in particular, make provision in relation to casino premises licences, or in relation to a class of casino premises licence, for a condition requiring the provision of recreational or other facilities of a specified kind.

(8) Subsection (7) is without prejudice to the generality of sections 167, 168 and 169.

Commencement Information

I220 S. 174(1) in force at 21.5.2007 by S.I. 2006/3272, art. 2(2), **Sch. 2** (with arts. 7-11, 7-12, Sch. 4) (as amended by S.I. 2007/1157, arts. 3(3), 4)

I221 S. 174(2)-(8) in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

175 Casino premises licence: overall limits

(1) No more than one casino premises licence may have effect at any time in respect of regional casinos.

(2) No more than eight casino premises licences may have effect at any time in respect of large casinos.

(3) No more than eight casino premises licences may have effect at any time in respect of small casinos.

Status: *Point in time view as at 25/05/2018. This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Gambling Act 2005. (See end of Document for details)*

(4) The Secretary of State shall, having consulted the Scottish Ministers and the National Assembly for Wales, by order make provision for determining the geographical distribution of casino premises licences within the limits specified in subsections (1) to (3); for which purpose the order shall—

(a) specify which licensing authorities may issue casino premises licences of a specified kind, and

(b) in respect of each specified authority, specify the number of casino premises licences of each kind issued by the authority that may have effect at any time.

(5) An application for a casino premises licence may not be made to a licensing authority if subsections (1) to (3) and the order under subsection (4) would prevent the authority from granting the application.

(6) An application for a provisional statement may not be made to a licensing authority if it relates to a casino and is made at a time when subsections (1) to (3) and the order under subsection (4) would prevent the authority from granting a casino premises licence in response to an application made in reliance on the provisional statement.

(7) Schedule 9 (which makes provision about the treatment of applications for casino premises licences and provisional statements) shall have effect.

(8) The Secretary of State may by order—

(a) amend any of subsections (1), (2) and (3) so as to substitute a new maximum number of casino premises licences;

(b) repeal any of subsections (1), (2) and (3).

Commencement Information

I222 S. 175 in force at 21.5.2007 by S.I. 2006/3272, art. 2(3), **Sch. 3** (with arts. 7-11, 7-12, Sch. 4) (as amended by SI 2007/1157, art. 3(3), 4(2))

I223 S. 175(2)-(8) in force at 20.5.2008 for specified purposes by S.I. 2008/1326, art. 2, **Sch.**

176 Casino premises licence: access by children

(1) The Commission shall issue one or more codes of practice under section 24 about access to casino premises for children and young persons.

(2) The code or codes issued in accordance with subsection (1) shall, in particular—

(a) require the holder of a casino premises licence to take specified steps to ensure that no child or young person enters premises or a part of premises which it would be an offence under section 47 to permit him to enter ("prohibited premises or areas"),

(b) for that purpose, require the holder of a casino premises licence to ensure—

(i) that each entrance to prohibited premises or to a prohibited area is supervised by one or more persons whose responsibilities include ensuring compliance with the code of practice ("the supervisor"), and

(ii) that arrangements are made to require evidence of age to be produced by any person seeking admission to prohibited premises or to a prohibited area unless the supervisor, reasonably, is certain that the person seeking admission is an adult, and

(c) make provision about the nature of evidence that may be used for the purpose of arrangements made in accordance with paragraph (b)(ii).

(3) A casino premises licence shall by virtue of this section be subject to the condition that the licensee ensures compliance with any relevant code of practice issued in accordance with subsection (1).

Commencement Information

I224 S. 176(1)(2) in force at 21.5.2007 by S.I. 2006/3272, art. 2(2), **Sch. 2** (with arts. 7-11, 7-12, Sch. 4) (as amended by S.I. 2007/1157, arts. 3(3), 4)

I225 S. 176(3) in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

177 Credit

(1) This section applies to—

(a) casino premises licences, and

(b) bingo premises licences.

(2) A premises licence to which this section applies shall by virtue of this section be subject to the condition that the licensee does not—

(a) give credit in connection with gambling authorised by the licence, or

(b) participate in, arrange, permit or knowingly facilitate the giving of credit in connection with gambling authorised by the licence.

(3) But the condition in subsection (2) shall not prevent the licensee from permitting the installation and use on the premises of a machine enabling cash to be obtained on credit from a person (the "credit provider") provided that—

(a) the licensee has no other commercial connection with the credit provider in relation to gambling,

(b) the licensee neither makes nor receives any payment or reward (whether by way of commission, rent or otherwise) in connection with the machine, and

(c) any conditions about the nature, location or use of the machine attached by virtue of section 167, 168 or 169 are complied with.

(4) In this section "credit" has the same meaning as in section 81.

Commencement Information

I226 S. 177 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

178 Door supervision

(1) Where a condition for door supervision is attached to a premises licence (whether by virtue of section 167, 168 or 169) subsection (3) shall apply in relation to the licence.

(2) In subsection (1) "condition for door supervision" means a condition requiring that one or more persons be responsible for guarding the premises against unauthorised access or occupation, against outbreaks of disorder or against damage.

(3) If the person carrying out the guarding mentioned in subsection (2) is required by the Private Security Industry Act 2001 (c. 12) to hold a licence under that Act authorising the guarding, the requirement under that Act shall be treated for the purposes of this Act as if it were a condition of the premises licence attached by virtue of this section.

Commencement Information

I227 S. 178 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

179 Pool betting on track

(1) A betting premises licence in respect of a track may not authorise the acceptance of bets by way of pool betting except in a case to which subsection (2) applies.

(2) This subsection applies to the acceptance of bets, by way of pool betting on horse-racing or dog-racing—
  (a) by the holder of the betting premises licence, or
  (b) in accordance with arrangements made by him.

(3) The Secretary of State may by order amend this section so as to—
  (a) add an exception to subsection (1),
  (b) amend an exception to subsection (1), or
  (c) remove an exception to subsection (1).

Commencement Information

I228 S. 179 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

180 Pool betting on dog races

(1) A betting premises licence in respect of premises other than a dog track shall by virtue of this section be subject to the condition that pool bets may not be accepted in reliance on the licence in respect of dog-racing other than in accordance with arrangements made with the occupier of the dog track on which the racing takes place.

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

(3) A repeal by order under subsection (2) shall cause the condition attached by subsection (1) to premises licences in force on the date of the repeal to lapse in respect of anything done on or after the date of the repeal.

(4) This section shall cease to have effect at the end of 31st December 2012 (and the condition attached by subsection (1) to premises licences in force on that date shall lapse in respect of anything done after that date).

Commencement Information

I229 S. 180 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

181 Betting machines

(1) A condition of a betting premises licence may relate to—

(a) the number of machines used on the premises for the purpose of making or accepting bets;

(b) the nature of those machines;

(c) the circumstances in which those machines are made available for use.

(2) A condition of a casino premises licence may relate to—

(a) the number of machines used on the premises for the purpose of making or accepting bets;

(b) the nature of those machines;

(c) the circumstances in which those machines are made available for use.

(3) In this section "condition" means a condition imposed by virtue of section section 167, 168 or 169.

Commencement Information

I230 S. 181 in force at 21.5.2007 by S.I. 2006/3272, art. 2(2), **Sch. 2** (with arts. 7-11, 7-12, Sch. 4) (as amended by S.I. 2007/1157, arts. 3(3), 4)

182 Exclusion of children from track areas

(1) A premises licence in respect of a track shall by virtue of this section be subject to the condition that the licensee shall ensure that children and young persons are excluded from—

(a) any area where facilities for betting are provided, and

(b) any area where a gaming machine, other than a Category D machine, is situated.

(2) But subsection (1)(a)—

(a) shall not apply to a dog track on a day on which dog-racing takes place, or is expected to take place, on the track, [F48]...

(b) shall not apply to a horse-race course on a day on which horse-racing takes place, or is expected to take place, on the course**[**[F49], and**]**

[[F50](c) shall not apply to any other track on a day on which a race or other sporting event takes place, or is expected to take place, on the track.**]**

(3) For the purposes of this section a reference to the area where facilities are provided or where a machine is situated is a reference to any place in which it is possible to take advantage of the facilities or use the machine.

(4) The Secretary of State may by order amend this section so as to—

(a) provide an additional exception to subsection (1)(a),

(b) remove an exception to subsection (1)(a), or
(c) amend an exception to subsection (1)(a).

Textual Amendments

F48 Word in s. 182(2)(a) deleted (1.9.2007) by Gambling Act 2005 (Exclusion of Children from Track Areas) Order 2007 (S.I. 2007/1410), arts. 1, **2(a)**

F49 Word in s. 182(2)(b) substituted (1.9.2007) by Gambling Act 2005 (Exclusion of Children from Track Areas) Order 2007 (S.I. 2007/1410), arts. 1, **2(b)**

F50 S. 182(2)(c) inserted (1.9.2007) by Gambling Act 2005 (Exclusion of Children from Track Areas) Order 2007 (S.I. 2007/1410), arts. 1, **2(c)**

Commencement Information

I231 S. 182(1)-(3) in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

I232 S. 182(4) in force at 30.4.2007 by S.I. 2006/3272, **art. 2(1A)** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/1157, art. 3(2))

183 Christmas Day

A premises licence shall, by virtue of this section, be subject to the condition that the premises shall not be used to provide facilities for gambling on Christmas Day.

Commencement Information

I233 S. 183 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

Maintenance

184 Annual fee

(1) The holder of a premises licence—
(a) shall pay a first annual fee to the licensing authority within such period after the issue of the licence as may be prescribed, and
(b) shall pay an annual fee to the licensing authority before each anniversary of the issue of the licence.

(2) In this section "annual fee" means a fee of such amount as may be prescribed; and "prescribed" means prescribed by regulations made—
(a) in relation to premises licences issued by authorities in England and Wales, by the Secretary of State, and
(b) in relation to premises licences issued by authorities in Scotland, by the Scottish Ministers.

(3) Regulations prescribing the annual fee may, in particular, make different provision for—
(a) licences authorising different classes of activity, or
(b) different circumstances.

Status: *Point in time view as at 25/05/2018. This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Gambling Act 2005. (See end of Document for details)*

(4) The Secretary of State may by regulations—

(a) require a licensing authority to refund a prescribed part of an annual fee paid under this section where a premises licence ceases to have effect otherwise than on or immediately before an anniversary of its issue,

(b) require a licensing authority to refund a prescribed part of an annual fee paid under this section if a premises licence is altered under section 186, 187, 188 or 202 and the annual fee for the licence as altered is less than the annual fee for the licence before alteration, and

(c) require a licensee to pay an additional amount by way of annual fee if a premises licence is altered under section 186, 187, 188 or 202 and the annual fee for the licence as altered is more than the annual fee for the licence before alteration.

(5) In relation to premises licences issued by authorities in Scotland, subsection (4) shall have effect as if the reference to the Secretary of State were a reference to the Scottish Ministers.

(6) Subsection (1)(b) does not apply in relation to an anniversary of the issue of a licence on or immediately before which the licence expires in accordance with regulations under section 191(1).

Modifications etc. (not altering text)

C64 S. 184(1) modified (1.1.2007) by The Gambling Act 2005 (Commencement No. 6 and Transitional Provisions) Order 2006 (S.I. 2006/3272), art. 1(1), **Sch. 4 para. 36** (as amended (29.4.2007) by S.I. 2007/1157, art. 9)

Commencement Information

I234 S. 184 in force at 21.5.2007 by S.I. 2006/3272, art. 2(2), **Sch. 2** (with arts. 7-11, 7-12, Sch. 4) (as amended by S.I. 2007/1157, arts. 3(3), 4)

185 Availability of licence

(1) The holder of a premises licence shall—

(a) keep the licence on the premises, and

(b) arrange for the licence to be made available on request to—

(i) a constable,

(ii) an enforcement officer, or

(iii) an authorised local authority officer.

(2) A person commits an offence if he fails without reasonable excuse to comply with subsection (1).

(3) A person guilty of an offence under subsection (2) shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

Commencement Information

I235 S. 185 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

Status: *Point in time view as at 25/05/2018. This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Gambling Act 2005. (See end of Document for details)*

186 Change of circumstance

(1) If the holder of a premises licence ceases to reside or attend at the address specified in the licence under section 151(1)(b) he shall as soon as is reasonably practicable—
  (a) notify the licensing authority, and
  (b) inform the licensing authority of a home or business address at which he resides or attends.

(2) The Secretary of State may make regulations requiring the holder of a premises licence—
  (a) to notify the licensing authority of any change of circumstance of a prescribed kind in relation to him or to an authorised activity, and
  (b) to give the licensing authority prescribed details of the change.

(3) If a change of circumstance notified under or by virtue of this section falsifies information contained in the premises licence in accordance with section 151, the notification must be accompanied by—
  (a) the prescribed fee, and
  (b) either—
    (i) the licence, or
    (ii) an application under section 190 for a copy of the licence.

(4) Where notification is accompanied by the licence, the licensing authority shall—
  (a) make such alteration to the information contained in the licence as appears to them to be required by the change in circumstance, and
  (b) return the licence to the licensee.

(5) Where the notification is accompanied by an application for a copy of the licence, the licensing authority shall, if they grant the application, issue the copy in a form which appears to them to reflect the change in circumstance.

(6) The holder of a premises licence commits an offence if he fails without reasonable excuse to comply with a provision of this section or of regulations made under this section.

(7) A person guilty of an offence under subsection (6) shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(8) This section does not prevent the imposition of a requirement to notify the licensing authority of a specified change of circumstance by way of the attachment of a condition to a premises licence.

(9) In subsection (3)(a) "prescribed" means—
  (a) in relation to notification given to authorities in England and Wales, prescribed by regulations made by the Secretary of State, and
  (b) in relation to notifications given to authorities in Scotland, prescribed by regulations made by the Scottish Ministers.

Commencement Information

I236 S. 186 in force at 21.5.2007 by S.I. 2006/3272, art. 2(2), **Sch. 2** (with arts. 7-11, 7-12, Sch. 4) (as amended by S.I. 2007/1157, arts. 3(3), 4)

Status: *Point in time view as at 25/05/2018. This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Gambling Act 2005. (See end of Document for details)*

187 Application to vary licence

(1) The holder of a premises licence may apply to the licensing authority to vary the licence by—
- (a) adding, amending or removing an authorised activity,
- (b) amending another detail of the licence,
- (c) excluding a condition attached by virtue of section 168, or
- (d) adding, amending or removing a condition attached to the licence under section 169.

(2) A licence may not be varied under this section so as to relate to premises to which it did not previously relate.

(3) The provisions of this Part shall apply in relation to an application for variation as they apply in relation to an application for a premises licence—
- (a) subject to the provisions of this section, and
- (b) with any other necessary modifications.

(4) Regulations under this Part which relate to an application for a premises licence may make—
- (a) provision which applies only in the case of an application for variation;
- (b) provision which does not apply in the case of an application for variation;
- (c) different provision in relation to an application for variation from that made in relation to an application for a premises licence;
- (d) different provision in relation to applications for variations of different kinds.

(5) An application for variation must (in addition to anything required by section 159) be accompanied by a statement of the variation sought.

(6) An application for variation must (in addition to anything required by section 159) also be accompanied by —
- (a) the licence to be varied, or
- (b) both—
  - (i) a statement explaining why it is not reasonably practicable to produce the licence, and
  - (ii) an application under section 190 for the issue of a copy of the licence.

(7) In granting an application for variation a licensing authority—
- (a) shall specify a time when the variation shall begin to have effect, and
- (b) may make transitional provision.

Commencement Information

I237 S. 187 in force at 21.5.2007 by S.I. 2006/3272, art. 2(2), **Sch. 2** (with arts. 7-11, 7-12, Sch. 4) (as amended by S.I. 2007/1157, arts. 3(3), 4)

188 Transfer

(1) A person may apply to a licensing authority for a premises licence to be transferred to him.

Status: *Point in time view as at 25/05/2018. This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Gambling Act 2005. (See end of Document for details)*

(2) The provisions of this Part shall apply in relation to an application for transfer as they apply in relation to an application for a premises licence—
  (a) subject to the provisions of this section and section 189, and
  (b) with any other necessary modifications.

(3) An application for transfer must (in addition to anything required by section 159)—
  (a) specify the time when the transfer is to take effect, and
  (b) be accompanied by a written statement by the licensee consenting to the transfer.

(4) A licensing authority shall grant an application for transfer unless they think it would be wrong to do so having regard to representations made under section 161 (as applied by subsection (2) above).

(5) On the grant of an application for the transfer of a premises licence the licensing authority—
  (a) shall alter the licence so that the applicant for the transfer becomes the licensee,
  (b) shall specify in the licence the time when the transfer takes effect (being either the time specified in the application under subsection (3) above or, if later, the time when the application is granted), and
  (c) shall make such other alteration of the licence as appears to them to be required (which may, in particular, include an alteration to reflect a decision of the authority under section 169 as applied by subsection (2) above to make new or varied provision for the attachment or exclusion of conditions).

(6) A licence to which a condition is attached under section 169 for the purpose of giving effect to an agreement entered into under paragraph 5(3)(b) of Schedule 9 ("the original agreement") shall not be transferred unless—
  (a) the transferee enters into an agreement ("the new agreement") which appears to the licensing authority to have substantially the same effect as the original agreement, and
  (b) the condition is altered so as to give effect to the new agreement.

Commencement Information

I238 S. 188 in force at 21.5.2007 by S.I. 2006/3272, art. 2(2), **Sch. 2** (with arts. 7-11, 7-12, Sch. 4) (as amended by S.I. 2007/1157, arts. 3(3), 4)

189 Transfer: supplemental

(1) If an application for transfer under section 188 states that the applicant has failed to contact the licensee having taken all reasonable steps to do so, the licensing authority shall—
  (a) disapply section 188(3)(b) and take all reasonable steps to notify the licensee, or
  (b) determine not to disapply section 188(3)(b) and notify the applicant of their determination and the reasons for it.

(2) An application for transfer must (in addition to anything required by section 159) be accompanied by—

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(a) the licence, or

(b) both—

(i) a statement explaining why it is not reasonably practicable to produce the licence, and

(ii) an application by the licensee under section 190 for the issue of a copy of the licence.

(3) In relation to an application for transfer to which subsection (1) applies, for the purposes of any application under section 190 required in accordance with subsection (2)(b)(ii) above—

(a) the application under that section shall be made by the applicant for transfer, and

(b) a reference to the licence being lost, stolen or damaged shall be treated as a reference to the licence being unavailable to the applicant for transfer.

(4) Regulations under section 160, as they have effect in relation to applications for transfer by virtue of section 188(2), may require notice to be given to specified responsible authorities (and not to all responsible authorities).

(5) Section 161 shall have effect in relation to an application for transfer with the omission of the reference to interested parties.

(6) If an application for the transfer of a premises licence includes a request that this subsection apply, the licence shall have effect as if the applicant for transfer were the licensee during the period—

(a) beginning with the receipt of the application for transfer by the licensing authority, and

(b) ending with the determination of the application by the licensing authority.

Commencement Information

I239 S. 189 in force at 21.5.2007 by S.I. 2006/3272, art. 2(2), **Sch. 2** (with arts. 7-11, 7-12, Sch. 4) (as amended by S.I. 2007/1157, arts. 3(3), 4)

190 Copy of licence

(1) Where a premises licence issued, or a summary given, under section 164 is lost, stolen or damaged, the licensee may apply to the licensing authority for a copy.

(2) An application under subsection (1) must be accompanied by the prescribed fee.

(3) A licensing authority shall consider an application under this section as soon as is reasonably practicable and shall grant it if satisfied—

(a) that the licence or summary to which the application relates has been lost, stolen or damaged, and

(b) where the licence or summary has been lost or stolen, that the loss or theft has been reported to the police.

(4) As soon as is reasonably practicable after granting an application under this section a licensing authority shall issue a copy of the licence or summary to the applicant—

(a) certified by the authority as a true copy, and

(b) in, or in relation to, the form in which the licence had effect before the loss, theft or damage.

(5) A copy of a licence or summary issued under this section shall be treated as if it were the licence or summary.

(6) In subsection (2) "prescribed" means—

(a) in relation to applications to authorities in England and Wales, prescribed by regulations made by the Secretary of State, and

(b) in relation to applications to authorities in Scotland, prescribed by regulations made by the Scottish Ministers.

Commencement Information

I240 S. 190 in force at 21.5.2007 by S.I. 2006/3272, art. 2(2), **Sch. 2** (with arts. 7-11, 7-12, Sch. 4) (as amended by S.I. 2007/1157, arts. 3(3), 4)

Duration

191 Initial duration

(1) The Secretary of State may by regulations prescribe a period at the end of which premises licences expire (unless they cease to have effect earlier in accordance with a provision of this Part).

(2) Regulations under this section may make provision about renewal (and may, in particular, apply or make provision similar to any provision of this Part about an application for a premises licence).

(3) Regulations under this section may make provision which applies to licences issued before the regulations are made.

(4) If the Secretary of State does not prescribe a period under this section in respect of a premises licence, it shall continue to have effect unless and until it ceases to have effect in accordance with a provision of this Part.

Commencement Information

I241 S. 191 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

192 Surrender

(1) A premises licence shall cease to have effect if the licensee—

(a) notifies the licensing authority of his intention to surrender the licence, and

(b) gives the licensing authority either—

(i) the licence, or

(ii) a written statement explaining why it is not reasonably practicable to produce the licence.

(2) As soon as is reasonably practicable after receipt of notification under subsection (1) (a) the licensing authority shall notify—

(a) the Commission,

(b) either—

(i) in England and Wales, the chief officer of police for any area in which the premises are wholly or partly situated, or

(ii) in Scotland, the chief constable of the police force maintained for a police area in which the premises are wholly or partly situated, and

(c) Her Majesty's Commissioners of Customs and Excise.

Commencement Information

I242 S. 192 in force at 21.5.2007 by S.I. 2006/3272, art. 2(2), **Sch. 2** (with arts. 7-11, 7-12, Sch. 4) (as amended by S.I. 2007/1157, arts. 3(3), 4)

193 Revocation for failure to pay fee

(1) Where the holder of a premises licence fails to pay the annual fee in accordance with regulations under section 184 the licensing authority shall revoke the licence.

(2) But the licensing authority may disapply subsection (1) if they think that a failure to pay is attributable to administrative error.

Commencement Information

I243 S. 193 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

194 Lapse

(1) In the case of a premises licence issued to an individual, the licence shall lapse if—

(a) the licensee dies,

(b) the licensee becomes, in the opinion of the licensing authority as notified to the licensee, incapable of carrying on the licensed activities by reason of mental or physical incapacity,

(c) the licensee becomes bankrupt (within the meaning of section 381 of the Insolvency Act 1986 (c. 45)), **[**[F51]or a debt relief order is made in respect of the licensee (under Part 7A of the Insolvency Act 1986),**]** or

(d) sequestration of the licensee's estate is awarded under section **[**[F52]22(1) of the Bankruptcy (Scotland) Act 2016**]** .

(2) In any other case a premises licence shall lapse if the licensee—

(a) ceases to exist, or

(b) goes into liquidation (within the meaning of section 247(2) of the Insolvency Act 1986).

(3) If a licensing authority become aware that a premises licence issued by them has lapsed, they shall as soon as is reasonably practicable notify—

(a) the Commission,

(b) either—

(i) in England and Wales, the chief officer of police for any area in which the premises are wholly or partly situated, or

(ii) in Scotland, the chief constable of the police force maintained for a police area in which the premises are wholly or partly situated, and

(c) Her Majesty's Commissioners of Customs and Excise.

Textual Amendments

F51 Words in s. 194(1)(c) inserted (1.10.2012) by The Tribunals, Courts and Enforcement Act 2007 (Consequential Amendments) Order 2012 (S.I. 2012/2404), art. 1, **Sch. 2 para. 55(3)** (with art. 5)

F52 Words in s. 194(1)(d) substituted (30.11.2016) by The Bankruptcy (Scotland) Act 2016 (Consequential Provisions and Modifications) Order 2016 (S.I. 2016/1034), art. 1, **Sch. 1 para. 28(3)**

Commencement Information

I244 S. 194 in force at 21.5.2007 by S.I. 2006/3272, art. 2(2), **Sch. 2** (with arts. 7-11, 7-12, Sch. 4) (as amended by S.I. 2007/1157, arts. 3(3), 4)

195 Reinstatement

(1) This section applies where a premises licence lapses under section 194.

(2) During the period of six months beginning with the date of the lapse of the premises licence a person may apply to the licensing authority for the licence to be reinstated with the applicant as the licensee.

(3) The provisions of this Part shall apply in relation to an application for reinstatement as they apply in relation to an application for a premises licence—

(a) subject to the provisions of this section and section 196, and

(b) with any other necessary modifications.

(4) An application for reinstatement must (in addition to anything required by section 159) request that the reinstatement take effect upon the application being granted.

(5) A licensing authority shall grant an application for reinstatement unless they think it would be wrong to do so having regard to representations made under section 161 (as applied by subsection (3) above).

(6) On the grant of an application for the reinstatement of a premises licence the licensing authority—

(a) shall alter the licence so that the applicant for reinstatement becomes the licensee,

(b) shall specify in the licence that the reinstatement takes effect at the time when the application is granted, and

(c) shall make such other alteration of the licence as appears to them to be required (which may, in particular, include an alteration to reflect a decision of the authority under section 169 as applied by subsection (3) above to make new or varied provision for the attachment or exclusion of conditions).

Status: *Point in time view as at 25/05/2018. This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Gambling Act 2005. (See end of Document for details)*

Commencement Information

I245 S. 195 in force at 21.5.2007 by S.I. 2006/3272, art. 2(2), **Sch. 2** (with arts. 7-11, 7-12, Sch. 4) (as amended by S.I. 2007/1157, arts. 3(3), 4)

196 Reinstatement: supplemental

(1) An application under section 195 for the reinstatement of a premises licence must (in addition to anything required by section 159) be accompanied by—

(a) the licence, or

(b) both—

(i) a statement explaining why it is not reasonably practicable to produce the licence, and

(ii) an application under section 190 for the issue of a copy of the licence.

(2) In the case of an application under section 190 made in accordance with subsection (1)(b)(ii) above—

(a) the application shall be made by the applicant for reinstatement, and

(b) a reference to the licence being lost, stolen or damaged shall be treated as a reference to the licence being unavailable to the applicant for reinstatement.

(3) Regulations under section 160, as they have effect in relation to applications for reinstatement by virtue of section 195(3), may require notice to be given to specified responsible authorities (and not to all responsible authorities).

(4) Section 161 shall have effect in relation to an application for reinstatement with the omission of the reference to interested parties.

(5) Where an application is made under section 195 for the reinstatement of a premises licence, the licence shall have effect as if the applicant for reinstatement were the licensee during the period—

(a) beginning with the receipt of the application for reinstatement by the licensing authority, and

(b) ending with the determination of the application by the licensing authority.

Commencement Information

I246 S. 196 in force at 21.5.2007 by S.I. 2006/3272, art. 2(2), **Sch. 2** (with arts. 7-11, 7-12, Sch. 4) (as amended by S.I. 2007/1157, arts. 3(3), 4)

Review

197 Application for review

(1) A responsible authority or interested party may apply to the licensing authority for a review by the authority of a premises licence.

(2) An application must—

(a) be made in the prescribed form and manner,

(b) specify the grounds on which the review is sought, and

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(c) contain or be accompanied by the prescribed information or documents.

(3) The Secretary of State may make regulations requiring an applicant—
(a) to give notice of his application to the licensee;
(b) to give notice of his application to the responsible authorities in relation to the premises.

(4) The Secretary of State may make regulations requiring the licensing authority to whom an application is made under this section to publish notice of the application.

(5) Regulations under subsection (2), (3) or (4) shall include provision—
(a) about the manner and form in which notice is to be published or given,
(b) about the period of time within which notice is to be published or given, and
(c) for the consequences of failure to comply with the regulations.

(6) Regulations by virtue of subsection (5)(a) shall, in particular, require a notice to specify a period of time during which representations about the application may be made to the licensing authority by—
(a) the licensee,
(b) a responsible authority, or
(c) an interested party.

(7) In relation to applications to authorities in Scotland, subsections (3) and (4) shall have effect as if the references to the Secretary of State were references to the Scottish Ministers.

Commencement Information
I247 S. 197 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

198 Rejection of application

(1) A licensing authority may reject an application under section 197 for the review of a premises licence if they think that the grounds on which the review is sought—
(a) do not raise an issue relevant to the principles to be applied in accordance with section 153,
(b) are frivolous,
(c) are vexatious,
(d) will certainly not cause the authority to wish to take action of a kind specified in section 202(1),
(e) are substantially the same as the grounds specified in an earlier application under section 197 in respect of the premises licence, or
(f) are substantially the same as representations made under section 161 in relation to the application for the premises licence.

(2) In determining whether to exercise the power to reject an application under section 197 in accordance with subsection (1)(e) or (f), a licensing authority shall consider the length of time that has elapsed since the making of the earlier application or since the making of the representations under section 161.

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Changes to legislation: *There are currently no known outstanding effects for the Gambling Act 2005. (See end of Document for details)*

(3) If a licensing authority consider that paragraphs (a) to (f) apply to some but not all of the grounds on which a review is sought, they may reject the application in so far as it relies on grounds to which those paragraphs apply.

(4) In this section a reference to section 161 includes a reference to that section as applied by section 187(3).

Commencement Information

I248 S. 198 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

199 Grant of application

(1) This section applies where an application for review has been made to a licensing authority under section 197.

(2) If, or in so far as, the licensing authority do not reject the application under section 198 they shall grant it.

Commencement Information

I249 S. 199 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

200 Initiation of review by licensing authority

(1) A licensing authority may review in relation to premises licences of a particular class—

(a) the use made of premises, and

(b) in particular, arrangements made by licensees to ensure compliance with conditions attached under section 167, 168 or 169 or by a provision of this Part.

(2) A licensing authority may review any matter connected with the use of premises in reliance on a premises licence if the authority—

(a) have reason to suspect that the premises may have been used in purported reliance on a licence but not in accordance with a condition of the licence, or

(b) for any reason (which may relate to the receipt of a complaint about the use of the premises) think that a review would be appropriate.

(3) Before reviewing a premises licence under subsection (2) the licensing authority shall—

(a) give notice of their intention to hold the review to the licensee, and

(b) publish notice of their intention to hold the review.

(4) The Secretary of State may make regulations about—

(a) the manner and form in which notice under subsection (3) is to be given or published, and

(b) the period of time within which notice is to be given or published.

(5) Regulations by virtue of subsection (4)(a) shall, in particular, require a notice to specify a period of time during which representations about the review may be made to the licensing authority by—
  (a) the licensee,
  (b) a responsible authority, or
  (c) an interested party.

(6) In relation to notice given by a licensing authority in Scotland, subsection (4) shall have effect as if the reference to the Secretary of State were a reference to the Scottish Ministers.

Commencement Information

I250 S. 200 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

201 Review

(1) This section applies where a licensing authority—
  (a) have granted an application for a review of a premises licence under section 199, or
  (b) have given notice under section 200 of their intention to hold a review of a premises licence.

(2) As soon as is reasonably practicable after the expiry of any period for representations prescribed under section 197(6) or 200(5), the licensing authority shall review the premises licence.

(3) The purpose of the review shall be to consider whether to take action of a kind specified in section 202(1) in relation to the licence.

(4) In conducting a review of a premises licence a licensing authority shall hold a hearing unless—
  (a) the applicant for the review (if there is one), and each person who has made representations about the review under section 197(6) or 200(5), have consented to the conduct of the review without a hearing, or
  (b) the licensing authority think that each representation made about the review in accordance with section 197(6) or 200(5)—
    (i) is frivolous,
    (ii) is vexatious, or
    (iii) will certainly not influence the review.

(5) In considering whether to take action of a kind specified in section 202(1) the licensing authority shall have regard (in addition to the matters specified in section 153) to—
  (a) any representations made in accordance with section 197(6) or 200(5),
  (b) any representations made at the hearing of the review (if there is one), and
  (c) in the case of a review held in response to an application under section 197, the grounds specified in the application for the review (apart from any in relation to which the application was rejected under section 198(3)).

Status: *Point in time view as at 25/05/2018. This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Gambling Act 2005. (See end of Document for details)*

Commencement Information

I251 S. 201 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

202 Action following review

(1) As a result of a review of a premises licence under section 201 a licensing authority may—

(a) revoke the licence;

(b) suspend the licence for a specified period not exceeding three months;

(c) exclude a condition attached to the licence under section 168 or remove or amend an exclusion;

(d) add, remove or amend a condition under section 169.

(2) If the licensing authority decide to take action of a kind specified in subsection (1) they shall specify the time at which the action shall take effect.

(3) A licensing authority may, in particular, take action under subsection (1) on the grounds that the licensee has not used the licence.

Commencement Information

I252 S. 202 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

203 Determination

(1) As soon as possible after completion of a review of a premises licence under section 201 a licensing authority shall give notice of their decision on the review to—

(a) the licensee,

(b) the applicant for the review (if any),

(c) the Commission,

(d) any person who made representations in accordance with section 197 or 200,

(e) either—

(i) in England and Wales, the chief officer of police for any area in which the premises are wholly or partly situated, or

(ii) in Scotland, the chief constable of the police force maintained for a police area in which the premises are wholly or partly situated, and

(f) Her Majesty's Commissioners of Customs and Excise.

(2) A notice under subsection (1)—

(a) must be in the prescribed form, and

(b) must give the authority's reasons for their decision.

Commencement Information

I253 S. 203 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

Provisional statement

204 Application

(1) A person may make an application for a provisional statement in respect of premises—
- (a) that he expects to be constructed,
- (b) that he expects to be altered, or
- (c) that he expects to acquire a right to occupy.

(2) The provisions of this Part shall apply in relation to an application for a provisional statement as they apply in relation to an application for a premises licence—
- (a) subject to the provisions of this section and section 205, and
- (b) with any other necessary modifications.

(3) An application for a provisional statement shall include such plans and other information in relation to the construction, alteration or acquisition as may be prescribed.

(4) Sections 152(1)(b) and 159(3) and (5) shall not apply in relation to an application for a provisional statement.

Commencement Information

I254 S. 204 in force at 21.5.2007 for specified purposes by S.I. 2006/3272, art. 2(2), **Sch. 2** (with arts. 7-11, 7-12, Sch. 4) (as amended by S.I. 2007/1157, arts. 3(3), 4)

I255 S. 204 in force at 21.5.2007 in so far as not already in force by S.I. 2006/3272, art. 2(3), **Sch. 3** (with arts. 7-11, 7-12, Sch. 4) (as amended by SI 2007/1157, art. 3(3), 4(2))

I256 S. 204 in force at 1.9.2007 for specified purposes by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

I257 S. 204 in force at 20.5.2008 for specified purposes by S.I. 2008/1326, art. 2, **Sch.**

205 Effect

(1) This section applies where—
- (a) a licensing authority issue a provisional statement in respect of premises, and
- (b) an application is made under section 159 for a premises licence in respect of the premises.

(2) The licensing authority shall disregard any representations made in relation to the application for the premises licence unless they think that the representations—
- (a) address matters that could not have been addressed in representations in relation to the application for the provisional statement, or
- (b) reflect a change in the applicant's circumstances.

(3) The licensing authority may refuse the application, or grant it on terms or conditions not included in the provisional statement, only by reference to matters which—

(a) the authority have considered in reliance on subsection (2)(a), or

(b) in the authority's opinion reflect a change in the applicant's circumstances.

(4) But subsections (2) and (3) do not apply in the case of a provisional statement issued in response to an application under section 204(1)(a) or (b) if the licensing authority think that the premises have been constructed or altered otherwise than in accordance with the plans and information included with the application for the provisional statement in accordance with section 204(3).

Commencement Information

I258 S. 205 in force at 21.5.2007 by S.I. 2006/3272, art. 2(2), **Sch. 2** (with arts. 7-11, 7-12, Sch. 4) (as amended by S.I. 2007/1157, arts. 3(3), 4)

Appeals

206 Rights of appeal

(1) Where a licensing authority reject an application under this Part the applicant may appeal.

(2) Where a licensing authority grant an application under this Part either of the following may appeal—

(a) a person who made representations in relation to the application, and

(b) the applicant.

(3) Where a licensing authority take action under section 202 as a result of a review of a premises licence, or determine to take no action as a result of a review, any of the following may appeal—

(a) the licensee,

(b) a person who made representations in relation to the review,

(c) the person (if any) who applied for the review, and

(d) the Commission.

(4) Where a licensing authority take action or make a determination under section 188(4) or (5) either of the following may appeal—

(a) the licensee, and

(b) the applicant for transfer.

Commencement Information

I259 S. 206 in force at 21.5.2007 by S.I. 2006/3272, art. 2(2), **Sch. 2** (with arts. 7-11, 7-12, Sch. 4) (as amended by S.I. 2007/1157, arts. 3(3), 4)

207 Process

(1) An appeal under section 206 in relation to premises must be instituted—

(a) in the magistrates' court for a local justice area in which the premises are wholly or partly situated,
(b) by notice of appeal given to the designated officer, and
(c) within the period of 21 days beginning with the day on which the appellant receives notice of the decision against which the appeal is brought.

(2) Where an appeal is brought under section 206 the licence holder (or the applicant in the case of an appeal against the grant of an application for a premises licence) shall be a respondent in addition to the licensing authority (unless he is the appellant).

(3) On an appeal under section 206 the magistrates' court may—
(a) dismiss the appeal;
(b) substitute for the decision appealed against any decision that the licensing authority could have made;
(c) remit the case to the licensing authority to decide in accordance with a direction of the court;
(d) make an order about costs.

(4) Section 206 applies to a decision of a licensing authority following remittal under subsection (3)(c) above.

(5) In relation to premises in Scotland—
(a) subsection (1)(a) shall have effect as if it referred to a sheriff within whose sheriffdom the premises are wholly or partly situated,
(b) subsection (1)(b) shall not have effect,
(c) the reference in subsection (3) to the magistrates' court shall have effect as a reference to the sheriff, and
(d) the reference in subsection (3) to costs shall have effect as a reference to expenses.

Commencement Information
I260 S. 207 in force at 21.5.2007 by S.I. 2006/3272, art. 2(2), **Sch. 2** (with arts. 7-11, 7-12, Sch. 4) (as amended by S.I. 2007/1157, arts. 3(3), 4)

208 Stay pending appeal

(1) A determination or other action under this Part shall have no effect while an appeal under section 206—
(a) could be brought, or
(b) has been brought and has not yet been either finally determined or abandoned.

(2) But a licensing authority making a determination or taking other action under this Part may direct that subsection (1) shall not apply (in which case the magistrates' court or sheriff determining an appeal may make any order that it or he thinks appropriate).

Commencement Information
I261 S. 208 in force at 21.5.2007 by S.I. 2006/3272, art. 2(2), **Sch. 2** (with arts. 7-11, 7-12, Sch. 4) (as amended by S.I. 2007/1157, arts. 3(3), 4)

Status: *Point in time view as at 25/05/2018. This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Gambling Act 2005. (See end of Document for details)*

209 Further appeal

A party to an appeal under section 206 may appeal on a point of law—

(a) in relation to premises in England and Wales, to the High Court, or

(b) in relation to premises in Scotland, to the Court of Session.

Commencement Information

I262 S. 209 in force at 21.5.2007 by S.I. 2006/3272, art. 2(2), **Sch. 2** (with arts. 7-11, 7-12, Sch. 4) (as amended by S.I. 2007/1157, arts. 3(3), 4)

General

210 Planning permission

(1) In making a decision in respect of an application under this Part a licensing authority shall not have regard to whether or not a proposal by the applicant is likely to be permitted in accordance with the law relating to planning or building.

(2) A decision by a licensing authority under this Part shall not constrain any later decision by the authority under the law relating to planning or building.

Commencement Information

I263 S. 210 in force at 21.5.2007 by S.I. 2006/3272, art. 2(2), **Sch. 2** (with arts. 7-11, 7-12, Sch. 4) (as amended by S.I. 2007/1157, arts. 3(3), 4)

211 Vehicles and vessels

(1) A premises licence—

(a) may not be issued in relation to a vehicle (or part of a vehicle),

(b) may be issued in relation to all or part of a passenger vessel,

(c) may be issued in relation to all or part of a vessel (within the meaning of section 353(1)) situated at a fixed place in or on water, and

(d) may not be issued in relation to all or part of a vessel to which neither of paragraphs (b) and (c) applies.

(2) A premises licence in relation to a vessel may include a condition imposed by virtue of section 169 about the location of the vessel.

(3) In relation to a vessel, a reference in this Part to a place in which premises are wholly or partly situated shall be construed—

(a) in the case of a vessel (within the meaning of section 353(1)) situated at a fixed place in or on water, as a reference to that place,

(b) in the case of a vessel which is permanently moored at a place, as a reference to that place,

(c) in the case of a vessel which is habitually moored at one place more frequently or for longer periods than at any other place, as a reference to that place, and

(d) in any other case, as a reference to any place at which a vessel is moored or is likely to be moored, or to the place in the United Kingdom nearest to any

place at which a vessel is or is likely to be, while activities are carried on in the vessel in reliance on a premises licence.

(4) In relation to a vessel, the following are responsible authorities for the purposes of this Part (in addition to the persons listed in section 157)—

(a) a navigation authority, within the meaning of section 221(1) of the Water Resources Act 1991 (c. 57), which has functions in relation to any place where the vessel is or is likely to be while activities are carried on in the vessel in reliance on a premises licence,

(b) the Environment Agency,

[[F53](c) the British Waterways Board, if the place where the vessel is or is likely to be while activities are carried on in the vessel in reliance on a premises licence is in Scotland,

(ca) Canal & River Trust, if the place where the vessel is or is likely to be while activities are carried on in the vessel in reliance on a premises licence is in England or Wales, and**]**

(d) the Secretary of State.

Textual Amendments

F53 S. 211(4)(c)(ca) substituted for s. 211(4)(c) (2.7.2012) by The British Waterways Board (Transfer of Functions) Order 2012 (S.I. 2012/1659), art. 1(2), **Sch. 3 para. 17(2)** (with arts. 4-6)

Commencement Information

I264 S. 211 in force at 21.5.2007 by S.I. 2006/3272, art. 2(2), **Sch. 2** (with arts. 7-11, 7-12, Sch. 4) (as amended by S.I. 2007/1157, arts. 3(3), 4)

212 Fees

(1) Regulations under this Part prescribing a fee—

(a) may provide for the amount of the fee to be determined by a licensing authority, and

(b) may, if they make provision by virtue of paragraph (a), specify constraints on a licensing authority's power to determine the amount of the fee.

(2) Where provision is made under subsection (1) for the amount of a fee to be determined by a licensing authority, the authority—

(a) shall determine the amount of the fee,

(b) may determine different amounts for different classes of case specified in the regulations (but may not otherwise determine different amounts for different cases),

(c) shall publish the amount of the fee as determined from time to time, and

(d) shall aim to ensure that the income from fees of that kind as nearly as possible equates to the costs of providing the service to which the fee relates (including a reasonable share of expenditure which is referable only partly or only indirectly to the provision of that service).

(3) For the purposes of subsection (2)(d) a licensing authority shall compare income and costs in such manner, at such times and by reference to such periods as the authority, having regard to any guidance issued by the Secretary of State, think appropriate.

(4) Regulations by virtue of this section may (without prejudice to the generality of section 355)—

(a) make provision which applies generally or only to specified authorities or classes of authority,

(b) make different provision for different authorities or classes of authority, and

(c) make transitional provision in respect of a case where an authority enters or leaves a class.

(5) A class of authority for the purposes of subsection (4) may, in particular, be defined by reference to categories assigned under section 99 of the Local Government Act 2003 (c. 26).

(6) This section does not apply to Scotland.

Commencement Information

I265 S. 212 in force at 21.5.2007 by S.I. 2006/3272, art. 2(2), **Sch. 2** (with arts. 7-11, 7-12, Sch. 4) (as amended by S.I. 2007/1157, arts. 3(3), 4)

213 Interpretation

In this Part—

(a) "authorised activity", in relation to a premises licence, means an activity specified under section 151(1)(d),

(b) "chief officer of police" has the meaning given by section 101(1) of the Police Act 1996 (c. 16),

(c) a reference to a chief officer's area is a reference to the area in respect of which he has responsibility under that Act,

(d) "holder", in relation to a premises licence, means the person to whom the licence is issued,

(e) "licensee", in relation to a premises licence, also means the person to whom the licence is issued,

(f) "the licensing authority", in relation to a premises licence, means the authority who issued the licence, and

(g) "prescribed" means (except where the contrary is provided) prescribed by regulations made by the Secretary of State.

Commencement Information

I266 S. 213 in force at 21.5.2007 by S.I. 2006/3272, art. 2(2), **Sch. 2** (with arts. 7-11, 7-12, Sch. 4) (as amended by S.I. 2007/1157, arts. 3(3), 4)

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Changes to legislation: *There are currently no known outstanding effects for the Gambling Act 2005. (See end of Document for details)*

PART 9

TEMPORARY USE OF PREMISES

Temporary use notice

214 Exception to offence of using premises for gambling

(1) A person who uses premises to carry on an activity listed in section 37(1), or who causes or permits premises to be used to carry on an activity to which that section applies, does not commit an offence under that section if—
  (a) a temporary use notice under this Part has effect in respect of the premises, and
  (b) the activity is carried on in accordance with the terms of the notice.

Commencement Information
I267 S. 214 in force at 1.12.2007 by S.I. 2007/3155, **art. 2**

215 Nature of notice

(1) A temporary use notice is a notice given in accordance with the provisions of this Part—
  (a) by the holder of an operating licence, and
  (b) stating his intention to carry on one or more specified prescribed activities.

(2) The Secretary of State may by regulations—
  (a) prescribe activities which may be specified in a notice under subsection (1)(b);
  (b) prescribe combinations of activity that may not be specified in a notice under subsection (1)(b);
  (c) prescribe activities which may be specified under subsection (1)(b) only if no other prescribed activity is specified in the notice.

(3) A temporary use notice given by a person may specify an activity under subsection (1)(b) only if the person's operating licence authorises him to carry on the activity.

Commencement Information
I268 S. 215 in force at 1.12.2007 by S.I. 2007/3155, **art. 2**

216 Form of notice

(1) A temporary use notice must—
  (a) be in the prescribed form,
  (b) specify the activity to be carried on in reliance on the notice,
  (c) specify the premises on which the activity is to be carried on,
  (d) specify the period of time during which the notice is to have effect,
  (e) specify the times of day during that period at which the activity is to be carried on,

(f) specify any periods during the previous 12 months during which a temporary use notice has had effect in respect of the premises or any part of the premises,

(g) specify the date on which the notice is given, and

(h) contain any other prescribed information.

(2) In this section "prescribed" means prescribed by regulations made by the Secretary of State.

(3) In subsection (1)(f) "the previous 12 months" means the period of 12 months ending with the last day of the period specified under subsection (1)(d).

Commencement Information

I269 S. 216 in force at 1.12.2007 by S.I. 2007/3155, **art. 2**

217 Effect of notice

A temporary use notice shall, subject to the provisions of this Part and provided that the requirements of this Part are complied with, have effect during the period specified in the notice in accordance with section 216(1)(d).

Commencement Information

I270 S. 217 in force at 1.12.2007 by S.I. 2007/3155, **art. 2**

218 Maximum permitted period

(1) A set of premises may not be the subject of temporary use notification for more than 21 days in a period of 12 months.

(2) A set of premises may be the subject of more than one temporary use notice in a period of 12 months (provided that the aggregate of the periods for which the notices have effect does not exceed 21 days).

(3) If a temporary use notice is given to a licensing authority and subsection (1) would be contravened if the notice had effect for any part of the period specified in accordance with section 216(1)(d), the licensing authority shall give a counter-notice providing for the temporary use notice not to have effect.

(4) Subsections (5) and (6) apply where a temporary use notice is given to a licensing authority and—

(a) subsection (1) would be contravened if the notice had effect for the whole of the period specified in accordance with section 216(1)(d) ("the specified period"), but

(b) the notice could have effect for some part of the specified period without resulting in contravention of subsection (1).

(5) The licensing authority shall give a counter-notice providing that the temporary use notice—

(a) shall not have effect during such part of the specified period as the licensing authority may specify in the counter-notice ("the excluded period"), and

(b) shall be treated for the purposes of this Part as if it related only to the non-excluded period.

(6) Where there is a choice as to which part of the specified period to exclude under subsection (5), the licensing authority shall consult the person who gave the temporary use notice before giving a counter-notice by virtue of that subsection.

(7) A counter-notice under this section shall have effect; and subsections (4) and (6) of section 224 shall apply in relation to a counter-notice given under this section as they apply in relation to a counter-notice given under that section.

(8) For the purposes of this section a set of premises is the subject of temporary use notification (or of a notice) if any part of the premises is the subject of temporary use notification (or of a notice).

Commencement Information

I271 S. 218 in force at 1.12.2007 by S.I. 2007/3155, **art. 2**

Procedure

219 Giving notice

(1) A temporary use notice must be given to the licensing authority for the area in which the premises specified under section 216(1)(c) are situated.

(2) A temporary use notice must be given before the period of three months ending with the day before the period specified under section 216(1)(d).

(3) A temporary use notice given under subsection (1) must be accompanied by—
- (a) a copy of the notice, and
- (b) such fee as may be prescribed by regulations made—
  - (i) in relation to premises in England and Wales, by the Secretary of State, and
  - (ii) in relation to premises in Scotland, by the Scottish Ministers.

(4) A person who gives a temporary use notice must give a copy of it to—
- (a) the Commission,
- (b) either—
  - (i) in England and Wales, the chief officer of police for any area in which the premises specified in the notice are wholly or partly situated, or
  - (ii) in Scotland, the chief constable of the police force maintained for a police area in which the premises are wholly or partly situated, and
- (c) Her Majesty's Commissioners of Customs and Excise.

(5) A person who gives a temporary use notice must ensure that it, and any copy required by this section to be given, are received within the period of 7 days beginning with the date specified under section 216(1)(g).

(6) In the case of premises situated partly in the area of one licensing authority and partly in the area of another, the person giving the notice—
- (a) may give it to either authority, and

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(b) shall give a copy of the notice to the other authority.

(7) In this Part—

(a) "chief officer of police" has the meaning given by section 101(1) of the Police Act 1996 (c. 16), and

(b) a reference to a chief officer's area is a reference to the area in respect of which he has responsibility under that Act.

(8) Section 212 shall have effect in relation to fees under this section as it has effect in relation to fees under Part 8.

Commencement Information

I272 S. 219 in force at 1.12.2007 by S.I. 2007/3155, **art. 2**

220 Acknowledgment of notice

Where a licensing authority receive a temporary use notice in accordance with section 219(1) they shall as soon as is reasonably practicable send a written acknowledgment of the notice to the person who gave it.

Commencement Information

I273 S. 220 in force at 1.12.2007 by S.I. 2007/3155, **art. 2**

221 Objections

(1) This section applies where a person receives a temporary use notice, or a copy of a temporary use notice, in accordance with section 219.

(2) If the person thinks that having regard to the licensing objectives the temporary premises notice should not have effect, or should have effect only with modification, he may give a notice of objection to the person who gave the temporary use notice.

(3) A person who gives a notice of objection under subsection (2) must give a copy of the notice to the licensing authority to which the temporary use notice was given (unless it is that licensing authority which give the notice of objection).

(4) A notice of objection and any copy required by subsection (3) must be given within the period of 14 days beginning with the date on which the temporary use notice is given as specified under section 216(1)(g).

(5) A notice of objection must state—

(a) that the person giving the notice objects to the temporary use notice, and

(b) the person's reasons.

(6) If the person who gives a notice of objection later withdraws it by notice in writing to the persons mentioned in subsections (2) and (3), the notice of objection shall be disregarded.

Commencement Information
I274 S. 221 in force at 1.12.2007 by S.I. 2007/3155, **art. 2**

222 Hearing of objections

(1) This section applies where—
- (a) a temporary use notice is given to a licensing authority in accordance with section 219, and
- (b) a notice of objection is given in accordance with section 221.

(2) The licensing authority shall hold a hearing at which any of the following may make representations about the notice of objection—
- (a) the person who gave the temporary use notice,
- (b) the person who gave the notice of objection, and
- (c) any other person who was entitled to receive a copy of the temporary use notice in accordance with section 219.

(3) But the licensing authority need not arrange a hearing if the authority and each person who would be entitled to make representations agree in writing that a hearing is unnecessary.

Commencement Information
I275 S. 222 in force at 1.12.2007 by S.I. 2007/3155, **art. 2**

223 Modification by agreement

(1) This section applies where—
- (a) a person has given a temporary use notice to a licensing authority in accordance with section 219,
- (b) a notice of objection has been given by a person ("the objector") in accordance with section 221, and
- (c) a hearing in accordance with section 222(2) has neither—
  - (i) taken place, nor
  - (ii) been dispensed with in accordance with section 222(3).

(2) The objector may by notice in writing to the person who gave the temporary use notice propose a modification of that notice.

(3) If the person who gave the temporary use notice accepts the modification—
- (a) he shall give a new notice, incorporating the modification, in accordance with section 219, and
- (b) the objection shall be treated as withdrawn (but without prejudice to the right of any person other than the objector to give a notice of objection in relation to the new notice).

(4) The following provisions of section 219 shall not apply to a temporary use notice given under subsection (3)(a) above—
- (a) subsection (2), and

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(b) subsection (3)(b).

Commencement Information
I276 S. 223 in force at 1.12.2007 by S.I. 2007/3155, **art. 2**

224 Counter-notice

(1) This section applies where—
- (a) a person has given a temporary use notice to a licensing authority in accordance with section 219,
- (b) a notice of objection has been given in accordance with section 221, and
- (c) a hearing—
  - (i) has taken place in accordance with section 222(2), or
  - (ii) has been dispensed with in accordance with section 222(3).

(2) If the licensing authority think that the temporary use notice should not have effect or should have effect only with modification, the authority may give a counter-notice under this subsection to the person who gave the temporary use notice.

(3) A counter-notice may provide for the temporary use notice—
- (a) not to have effect;
- (b) to have effect only in respect of a specified activity;
- (c) to have effect only in respect of activity carried on during a specified period of time or at specified times of day;
- (d) to have effect subject to compliance with a specified condition;

and provision made under this subsection shall have effect.

(4) A counter-notice must—
- (a) be in the prescribed form,
- (b) contain the prescribed information, and
- (c) be given as soon as is reasonably practicable.

(5) A counter-notice must state the licensing authority's reasons for giving it.

(6) Where a licensing authority give a counter-notice they shall as soon as is reasonably practicable give a copy to any person who was entitled to receive a copy of the temporary use notice.

(7) Section 153(1) shall apply to the exercise of a licensing authority's functions under this section as it applies to the exercise of a licensing authority's functions under Part 8.

(8) In this section “prescribed” means prescribed by regulations made by the Secretary of State.

Commencement Information
I277 S. 224 in force at 1.12.2007 by S.I. 2007/3155, **art. 2**

225 Dismissal of objection

(1) This section applies where—

(a) a person has given a temporary use notice to a licensing authority in accordance with section 219,

(b) a notice of objection has been given in accordance with section 221, and

(c) the licensing authority has determined not to give a counter-notice.

(2) The licensing authority shall as soon as is reasonably practicable give notice of their determination to—

(a) the person who gave the temporary use notice, and

(b) each person who received a copy of the temporary use notice in accordance with section 219.

Commencement Information

I278 S. 225 in force at 1.12.2007 by S.I. 2007/3155, **art. 2**

226 Appeal

(1) This section applies where a licensing authority—

(a) give a counter-notice under section 224, or

(b) give a notice under section 225.

(2) Any of the following may appeal—

(a) the person who gave the temporary use notice, and

(b) a person who was entitled to receive a copy of the temporary use notice under section 219.

(3) An appeal under this section must be instituted—

(a) in the magistrates' court for a local justice area in which the premises to which the temporary use notice relates are wholly or partly situated,

(b) by notice of appeal given to the designated officer, and

(c) within the period of 14 days beginning with the day on which the appellant receives notice of the action against which the appeal is brought.

(4) A person who was entitled to receive a copy of the temporary use notice under section 219 must determine whether to appeal, and institute any appeal, as soon as is reasonably practicable.

(5) Where an appeal is brought against the giving of a notice under section 225 the person who gave the temporary use notice shall be a respondent in addition to the licensing authority.

(6) On an appeal under this section the magistrates' court may—

(a) dismiss the appeal;

(b) direct the licensing authority to take action of a specified kind;

(c) remit the case to the licensing authority to decide in accordance with a direction of the court;

(d) make an order about costs.

Status: *Point in time view as at 25/05/2018. This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Gambling Act 2005. (See end of Document for details)*

(7) Subsection (2) applies to a decision of a licensing authority following remittal under subsection (6)(c) above.

(8) A party to an appeal under this section may bring a further appeal to the High Court on a point of law.

(9) In relation to premises in Scotland—
- (a) subsection (3)(a) shall have effect as if it referred to a sheriff within whose sheriffdom the premises are wholly or partly situated,
- (b) subsection (3)(b) shall not have effect,
- (c) the reference in subsection (6) to the magistrates' court shall have effect as a reference to the sheriff,
- (d) the reference in subsection (6) to costs shall have effect as a reference to expenses, and
- (e) the reference in subsection (8) to the High Court shall have effect as a reference to the Court of Session.

Commencement Information
I279 S. 226 in force at 1.12.2007 by S.I. 2007/3155, **art. 2**

227 Endorsement of notice

(1) This section applies where a temporary use notice has been given to a licensing authority under section 219.

(2) If no notice of objection is pending in relation to the temporary use notice when the 14 day period specified in section 221(4) expires, the licensing authority shall—
- (a) endorse the copy submitted under section 219(3)(a) in such manner as may be prescribed by the Secretary of State by regulations, and
- (b) return the endorsed copy, as soon as is reasonably practicable, to the person giving the notice.

(3) If a notice of objection is pending in relation to a temporary use notice when the 14 day period specified in section 221(4) expires, then as soon as is reasonably practicable after the completion of proceedings on the temporary use notice the licensing authority shall, unless they give a counter-notice under section 224(3)(a)—
- (a) endorse the copy submitted under section 219(3)(a) in such manner as may be prescribed by the Secretary of State by regulations, and
- (b) return the endorsed copy, as soon as is reasonably practicable, to the person giving the temporary use notice.

(4) For the purposes of this section a notice of objection is pending if it has been given in accordance with section 221 and—
- (a) it has not been withdrawn, and
- (b) it is not treated as withdrawn in accordance with section 223(3)(b).

(5) For the purposes of this section proceedings on a temporary use notice are completed—
- (a) if any notice of objection given in relation to the temporary use notice has been withdrawn, or

(b) if the licensing authority has given a counter-notice under section 224 or a notice under section 225.

(6) A licensing authority shall make arrangements whereby if an endorsed copy of a temporary use notice is lost, stolen or damaged the person who gave the notice can obtain a new endorsed copy; and—

(a) the arrangements may include the charging of such fee as the Secretary of State may prescribe by regulations, and

(b) section 212 shall have effect in relation to fees under paragraph (a) above as it has effect in relation to fees under Part 8.

Commencement Information

I280 S. 227 in force at 1.12.2007 by S.I. 2007/3155, **art. 2**

228 Consideration by licensing authority: timing

(1) Where a licensing authority are given a temporary use notice in accordance with section 219 the authority shall complete proceedings on the notice before the end of the period of six weeks beginning with the date on which they receive the notice.

(2) In subsection (1) the reference to proceedings on a temporary use notice is a reference to—

(a) considering whether to give a notice of objection under section 221,

(b) holding a hearing in relation to any notice of objection given under section 221 (whether or not by the licensing authority) or agreeing to dispense with a hearing in accordance with section 222(3), and

(c) giving a counter-notice under section 224 or a notice under section 225.

Commencement Information

I281 S. 228 in force at 1.12.2007 by S.I. 2007/3155, **art. 2**

Miscellaneous

229 Availability of notice

(1) A person who gives a temporary use notice in respect of premises shall—

(a) arrange for a copy of the notice to be displayed prominently on the premises at any time when an activity is being carried on in reliance on the notice, and

(b) arrange for the notice endorsed by the licensing authority in accordance with section 227 to be produced on request to—

(i) a constable,

(ii) an officer of customs and excise,

(iii) an enforcement officer, or

(iv) an authorised local authority officer.

(2) A person commits an offence if he fails without reasonable excuse to comply with subsection (1).

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Changes to legislation: *There are currently no known outstanding effects for the Gambling Act 2005. (See end of Document for details)*

(3) A person guilty of an offence under subsection (2) shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

Commencement Information
I282 S. 229 in force at 1.12.2007 by S.I. 2007/3155, **art. 2**

230 Withdrawal of notice

If a person who gives a temporary use notice to a licensing authority in accordance with section 219 notifies the licensing authority that the notice is withdrawn—

(a) the notice shall have no effect (or, if it has started to have effect, shall cease to have effect), and

(b) no further proceedings shall take place in respect of the notice (except in respect of a matter arising during or in relation to a time at which the notice had effect).

Commencement Information
I283 S. 230 in force at 1.12.2007 by S.I. 2007/3155, **art. 2**

231 Vehicles and vessels

(1) A temporary use notice—

(a) may not be given in respect of a vehicle (or part of a vehicle),

(b) may be given in respect of all or part of a passenger vessel,

(c) may be given in respect of all or part of a vessel (within the meaning of section 353(1)) situated at a fixed place in or on water, and

(d) may not be given in respect of all or part of a vessel to which neither of paragraphs (b) and (c) applies.

(2) In relation to a vessel, a reference in this Part to a place in which premises are wholly or partly situated shall be construed—

(a) in the case of a vessel (within the meaning of section 353(1)) situated at a fixed place in or on water, as a reference to that place,

(b) in the case of a vessel which is permanently moored at a place, as a reference to that place,

(c) in the case of a vessel which is habitually moored at one place more frequently or for longer periods than at any other place, as a reference to that place, and

(d) in any other case, as a reference to any place at which a vessel is moored or is likely to be moored, or to the place in the United Kingdom nearest to any place at which a vessel is or is likely to be, while activities are carried on in the vessel in reliance on a temporary use notice.

(3) In relation to a vessel, the following are responsible authorities for the purposes of this Part (in addition to the persons listed in section 157)—

(a) a navigation authority, within the meaning of section 221(1) of the Water Resources Act 1991 (c. 57), which has functions in relation to any place at which a vessel is moored or is likely to be moored, or to the place in the United

Kingdom nearest to any place at which a vessel is or is likely to be, while activities are carried on in the vessel in reliance on a temporary use notice,

(b) the Environment Agency,

[[F54](c) the British Waterways Board, if the place where the vessel is moored or is likely to be moored, or the place in the United Kingdom nearest to the place at which the vessel is or is likely to be, while activities are carried on in the vessel in reliance on a temporary use notice is in Scotland,

(ca) Canal & River Trust, if the place where the vessel is moored or is likely to be moored, or the place in the United Kingdom nearest to the place at which the vessel is or is likely to be, while activities are carried on in the vessel in reliance on a temporary use notice is in England or Wales, and]

(d) the Secretary of State.

Textual Amendments

F54 S. 231(3)(c)(ca) substituted for s. 231(3)(c) (2.7.2012) by The British Waterways Board (Transfer of Functions) Order 2012 (S.I. 2012/1659), art. 1(2), **Sch. 3 para. 17(3)** (with arts. 4-6)

Commencement Information

I284 S. 231 in force at 1.12.2007 by S.I. 2007/3155, **art. 2**

232 Delegation of licensing authority functions: England and Wales

(1) The functions under this Part of a licensing authority in England and Wales are by virtue of this subsection delegated to the licensing committee of the authority established under section 6 of the Licensing Act 2003 (c. 17).

(2) The following provisions of the Licensing Act 2003 shall apply in relation to a function delegated to a licensing committee under this section as they apply in relation to a function delegated under that Act—

(a) section 7(9) (referral back to licensing authority), and

(b) section 10 (sub-delegation).

(3) In the application of section 10(4) of that Act (matters not to be delegated to officer) by virtue of subsection (2) above, for the list of functions there shall be substituted a reference to any function under section 224 of this Act.

(4) The provisions of section 9 of that Act and regulations under it apply to proceedings of licensing committees and their sub-committees in relation to the exercise of functions under this Part; and for that purpose regulations may, in particular, make provision which applies—

(a) only in relation to functions under that Act,

(b) only in relation to functions under this Part, or

(c) differently in relation to functions under that Act and functions under this Part.

Commencement Information

I285 S. 232 in force at 1.12.2007 by S.I. 2007/3155, **art. 2**

233 Delegation of functions under Part 9: Scotland

[[F55](1) Subject to subsection (2), a licensing authority in Scotland may arrange for the discharge of any of its functions under this Part by–

(a) any member of the authority,

(b) any committee established by the authority,

(c) the clerk of the authority, or

(d) any member of staff provided under paragraph 8(1)(b) of schedule 1 to the Licensing (Scotland) Act 2005 (asp 16).**]**

(2) A licensing authority are not to make any arrangements under subsection (1) for the discharge by the clerk of the authority or any **[**[F56]member of staff provided under paragraph 8(1)(b) of schedule 1 to the Licensing (Scotland) Act 2005**]** of any of the authority's functions under section 224.

(3) The procedures applicable to the proceedings of licensing boards in the exercise of their functions under the Licensing (Scotland) Act **[**[F57]2005**]** apply to the proceedings of those boards in the exercise of their functions under this Part; and for that purpose regulations made by the Scottish Ministers may, in particular, make provision which applies—

(a) only in relation to functions under that Act,

(b) only in relation to functions under this Part,

(c) differently in relation to functions under that Act and functions under this Part.

Textual Amendments

F55 S. 233(1) substituted (1.9.2009 at 5.00 a.m.) by The Licensing (Scotland) Act 2005 (Consequential Provisions) Order 2009 (S.S.I. 2009/248), **sch. 1 para. 12(5)(a)** (with art. 3)

F56 Words in s. 233(2) substituted (1.9.2009 at 5.00 a.m.) by The Licensing (Scotland) Act 2005 (Consequential Provisions) Order 2009 (S.S.I. 2009/248), **sch. 1 para. 12(5)(b)** (with art. 3)

F57 Word in s. 233(3) substituted (1.9.2009 at 5.00 a.m.) by The Licensing (Scotland) Act 2005 (Consequential Provisions) Order 2009 (S.S.I. 2009/248), **sch. 1 para. 12(5)(c)** (with art. 3)

Commencement Information

I286 S. 233 in force at 1.12.2007 by S.I. 2007/3155, **art. 2**

234 Register

(1) A licensing authority shall—

(a) maintain a register of temporary use notices given to them together with such other information as may be prescribed,

(b) make the register and information available for inspection by members of the public at all reasonable times, and

(c) make arrangements for the provision of a copy of an entry in the register, or of information, to a member of the public on request.

(2) A licensing authority may refuse to provide a copy of an entry or of information unless the person seeking it pays a reasonable fee specified by the authority.

(3) The Secretary of State may make regulations about—

(a) the form of the register;

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Changes to legislation: *There are currently no known outstanding effects for the Gambling Act 2005. (See end of Document for details)*

(b) the manner in which it is maintained.

(4) The Secretary of State may make regulations—

(a) requiring licensing authorities to give to the Commission specified information about temporary use notices given to them,

(b) requiring the Commission to maintain a register of the information provided to it under paragraph (a),

(c) requiring the Commission to grant access to the register to members of the public (without charge),

(d) requiring the Commission to make copies of entries available on request, and on payment of a reasonable fee, to members of the public, and

(e) excusing licensing authorities, wholly or partly, from compliance with subsection (1).

Commencement Information

I287 S. 234 in force at 1.12.2007 by S.I. 2007/3155, **art. 2**

PART 10

GAMING MACHINES

Definitions

235 Gaming machine

(1) In this Act "gaming machine" means a machine which is designed or adapted for use by individuals to gamble (whether or not it can also be used for other purposes).

(2) But—

(a) a domestic or dual-use computer is not a gaming machine by reason only of the fact that it can be used to participate in remote gambling,

(b) a telephone or other machine for facilitating communication (other than a computer) is not a gaming machine by reason only of the fact that it can be used to participate in remote gambling,

(c) a machine is not a gaming machine by reason only of the fact that it is designed or adapted for use to bet on future real events,

(d) a machine is not a gaming machine by reason only of the fact that it dispenses lottery tickets or otherwise enables a person to enter a lottery provided that the results of the lottery—

(i) are not determined by the machine, and

(ii) are not announced by being displayed or communicated by the machine without there being an interval, between each entry to the lottery and the announcement, of at least such duration as the Secretary of State shall prescribe by order,

(e) a machine is not a gaming machine if—

(i) it is designed or adapted for the playing of bingo, and

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(ii) it is used in accordance with a condition attached to a bingo operating licence under section 75 or 77 by virtue of section 85(2)(b),

(f) a machine is not a gaming machine if—

(i) it is designed or adapted for the playing of bingo by way of prize gaming, and

(ii) it is used in accordance with a condition attached to a gaming machine general operating licence under section 75 or 77 by virtue of section 85(2)(b),

(g) a machine is not a gaming machine if—

(i) it is designed or adapted for the playing of bingo by way of prize gaming,

(ii) it is made available for use in reliance on a family entertainment centre gaming machine permit or a prize gaming permit, and

(iii) any requirements prescribed for the purposes of this paragraph in a code of practice under section 24, as to the specification of the machine or the circumstances in which it is made available for use, are complied with,

(h) a machine is not a gaming machine by reason only of the fact that it is designed or adapted to be—

(i) controlled or operated by an individual employed or concerned in arranging for others to play a real game of chance, or

(ii) used in connection with a real game of chance the arrangements for which are controlled or operated by an individual, and

(i) a machine is not a gaming machine by reason only of the fact that it is designed or adapted to enable individuals to play a real game of chance, if—

(i) its design or adaptation is such that it does not require to be controlled or operated by a person employed or concerned in arranging for others to play the game,

(ii) it is not designed or adapted for use in connection with a game the arrangements for which are controlled or operated by an individual, and

(iii) it is used in accordance with a condition attached to a casino operating licence under section 75 or 77 by virtue of section 85(2)(b).

(3) In this Act—

(a) a reference to a machine is a reference to any apparatus which uses or applies mechanical power, electrical power or both,

(b) a reference to a machine being designed or adapted for a purpose includes—

(i) a reference to a computer being able to be used for that purpose (subject to subsection (2)), and

(ii) a reference to any other machine to which anything has been done as a result of which it can reasonably be expected to be used for that purpose (subject to subsection (2)),

(c) a reference to a part of a gaming machine—

(i) includes a reference to any computer software designed or adapted for use in a gaming machine, but

(ii) does not include a reference to a component of a gaming machine which does not influence the outcome of a game,

(d) a reference to installing a part of a gaming machine includes a reference to installing computer software for the purpose of altering the operation of a gaming machine,

(e) a reference to adapting a gaming machine includes a reference to adapting a machine so that it becomes a gaming machine, and

(f) "domestic computer" and "dual-use computer" shall have the meanings assigned by the Secretary of State by regulations.

(4) Regulations under subsection (3)(f) may, in particular, make provision by reference to—

(a) the location of a computer,

(b) the purposes for which a computer is used,

(c) the circumstances in which a computer is used,

(d) the software installed on a computer, or

(e) any other matter.

(5) The Secretary of State may make regulations providing for circumstances in which a single piece of apparatus is to be treated as more than one gaming machine for the purpose of provision made by or by virtue of this Act; and the regulations may, in particular, make provision by reference to the number of persons able to operate the apparatus at the same time.

Commencement Information

I288 S. 235 in force at 21.5.2007 in so far as not already in force by S.I. 2006/3272, art. 2(2), **Sch. 2** (with arts. 7-11, 7-12, Sch. 4) (as amended by S.I. 2007/1157, arts. 3(3), 4)

I289 S. 235(1)(2)(b)-(i)(3)(a)-(e)(5) in force at 1.1.2007 by S.I. 2006/3272, art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

I290 S. 235(2)(a)(3)(f)(4) in force at 1.9.2007 in so far as not already in force by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

236 Gaming machines: Categories A to D

(1) The Secretary of State shall make regulations defining four classes of gaming machine for the purposes of this Act (to be known as Categories A, B, C, and D).

(2) Regulations under subsection (1) shall—

(a) divide Category B into sub-categories, and

(b) make provision for determining to which sub-category (or sub-categories) of Category B a reference in this Act to Category B shall be treated as referring.

(3) Regulations under subsection (1) shall operate by reference to the nature of the facilities for gambling provided by the machine.

(4) Regulations under subsection (1) may, in particular, make provision by reference to—

(a) amounts paid in respect of the use of a machine;

(b) the value of prizes;

(c) the nature of prizes;

(d) the nature of the gambling for which the machine can be used;

(e) the premises where a machine is used.

(5) Regulations under subsection (1) may identify matters (whether or not addressed by other provisions of the regulations) as to which a condition may not be attached to an operating licence or to a premises licence.

(6) In accordance with regulations under subsection (1) a machine may change category as a result of a change of the mechanism, or the loading or removal of software, which alters the nature of the facilities for gambling provided by the machine.

Commencement Information

I291 S. 236 in force at 21.5.2007 by S.I. 2006/3272, art. 2(2), **Sch. 2** (with arts. 7-11, 7-12, Sch. 4) (as amended by S.I. 2007/1157, arts. 3(3), 4)

I292 S. 236 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

237 Adult gaming centre

In this Act "adult gaming centre" means premises in respect of which an adult gaming centre premises licence has effect.

Commencement Information

I293 S. 237 in force at 1.1.2007 by S.I. 2006/3272, art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

238 Family entertainment centre

In this Act—

"family entertainment centre" means premises (other than an adult gaming centre) wholly or mainly used for making gaming machines available for use, and

"licensed family entertainment centre" means premises in respect of which a family entertainment centre premises licence has effect.

Commencement Information

I294 S. 238 in force at 1.1.2007 by S.I. 2006/3272, art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

239 Prize

In this Act "prize" in relation to a gaming machine—

(a) includes any money, article, right or service won, whether or not described as a prize, but

(b) does not include an opportunity to play the machine again.

Commencement Information

I295 S. 239 in force at 1.1.2007 by S.I. 2006/3272, art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

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Regulations

240 Use of machine

(1) The Secretary of State may make regulations controlling the circumstances in which a gaming machine is made available for use.

(2) Regulations under subsection (1) may, in particular, make provision by reference to—
- (a) the method by which stakes may be deposited or payments made for the use of a machine;
- (b) the nature of, or arrangements in respect of receiving or claiming, prizes;
- (c) rollover of stakes or prizes;
- (d) the proportion of amounts staked or paid that is returned by way of prizes;
- (e) the display of information;
- (f) any other matter relating to the manner in which a machine operates.

(3) Regulations under subsection (1) may identify matters (whether or not addressed by other provisions of the regulations) as to which a condition may not be attached to an operating licence or to a premises licence.

Commencement Information
I296 S. 240 in force at 1.1.2007 by S.I. 2006/3272, art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

241 Supply, &c.

(1) The Secretary of State may make regulations about the supply, installation, adaptation, maintenance or repair of a gaming machine or part of a gaming machine.

(2) Regulations under subsection (1) may identify matters (whether or not addressed by other provisions of the regulations) as to which a condition may not be attached to an operating licence or to a premises licence.

Commencement Information
I297 S. 241 in force at 1.1.2007 by S.I. 2006/3272, art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

Offences

242 Making machine available for use

(1) A person commits an offence if he makes a gaming machine available for use by another unless—
- (a) he makes the machine available for use in accordance with an operating licence, or
- (b) an exception in section 247, 248, 249, 271, 273, 282, 283 or 287 applies.

(2) A person commits an offence if he makes a gaming machine available for use in contravention of regulations under section 240.

Commencement Information

I298 S. 242 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

243 Manufacture, supply, &c.

(1) A person commits an offence if he manufactures, supplies, installs, adapts, maintains or repairs a gaming machine or part of a gaming machine unless—

(a) he acts in accordance with an operating licence, or

(b) an exception in or under section 248 or 250 applies.

(2) A person commits an offence if he—

(a) supplies, installs, adapts, maintains or repairs a gaming machine or part of a gaming machine, and

(b) fails to comply with a provision of regulations under section 241.

(3) Subsections (1) and (2) do not apply to the supply of a gaming machine, or part of a gaming machine—

(a) as scrap (without any element of salvage), or

(b) incidental to the sale or letting of property on which the machine has previously been used in reliance on a provision of this Act.

Commencement Information

I299 S. 243 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

244 Linked machines

(1) A person commits an offence if—

(a) he makes a gaming machine ("the first gaming machine") available for use by another, and

(b) the amount or value of a prize available through use of the first gaming machine is or may be wholly or partly determined by reference to use made of another gaming machine ("the linked gaming machine").

(2) But subsection (1) does not apply where—

(a) the person who makes the first gaming machine available for use is the holder of a casino premises licence, and

(b) the first gaming machine and the linked gaming machine are situated on the same premises.

(3) The Secretary of State may by order amend, or modify the effect of, subsection (2) so that subsection (1) is disapplied to the linking of machines in casinos whether or not the machines are situated on the same premises—

(a) to such extent as the order may specify,

(b) in such circumstances as the order may specify, and

(c) subject to such conditions as the order may specify.

Commencement Information

I300 S. 244 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

PROSPECTIVE

[F58]245 Credit

. . . . . .

Textual Amendments

F58 S. 245 repealed (1.9.2007) by Gambling Act 2005 (Repeal) (Remote Operating Licence and Credit) Regulations 2007 (S.I. 2007/2321), regs. 1, **2(c)**

246 Penalty

(1) A person guilty of an offence under this Part shall be liable on summary conviction to—

(a) imprisonment for a term not exceeding 51 weeks,

(b) a fine not exceeding level 5 on the standard scale, or

(c) both.

(2) In the application of subsection (1) to Scotland the reference to 51 weeks shall have effect as a reference to six months.

Commencement Information

I301 S. 246 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

Exceptions

247 Family entertainment centre gaming machine permit

(1) A person does not commit an offence under section 37 or 242 if he makes a Category D gaming machine available for use in accordance with a family entertainment centre gaming machine permit.

(2) A family entertainment centre gaming machine permit is a permit issued by a licensing authority authorising a person to make Category D gaming machines available for use in a specified family entertainment centre.

(3) Schedule 10 makes further provision about family entertainment centre gaming machine permits.

Commencement Information

I302 S. 247(1) in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

I303 S. 247(2) in force at 13.11.2006 by S.I. 2006/2964, **art. 2(b)**

I304 S. 247(3) in force at 13.11.2006 for specified purposes by S.I. 2006/2964, **art. 2(b)**

I305 S. 247(3) in force at 21.5.2007 for specified purposes by S.I. 2006/3272, art. 2(2), **Sch. 2** (with arts. 7-11, 7-12, Sch. 4) (as amended by S.I. 2007/1157, arts. 3(3), 4)

248 No prize

(1) A person does not commit an offence under section 37 or 242 if—

(a) he makes a gaming machine available for use by an individual, and

(b) the individual does not, by using the machine, acquire an opportunity to win a prize.

(2) The Secretary of State may make regulations creating exceptions from the offence under section 243 in connection with machines which, by virtue of their nature or any other specified matter, are not designed or expected to be used to provide an opportunity to win a prize.

Commencement Information

I306 S. 248(1) in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

I307 S. 248(2) in force at 1.1.2007 by S.I. 2006/3272, art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

249 Limited prize

(1) A person does not commit an offence under section 37 or 242 if—

(a) he makes a gaming machine available for use by an individual, and

(b) the individual does not, by using the machine, acquire an opportunity to win a prize of a value in excess of the amount that he pays for or in connection with his use of the machine.

(2) For the purpose of subsection (1)(b)—

(a) the reference to paying includes a reference to—

(i) paying money by way of an entrance charge,

(ii) using a coin to activate a gaming machine where the coin will not or may not be returned,

(iii) transferring money's worth, and

(iv) paying for goods or services at a price or rate which reflects the opportunity to use a gaming machine, and

(b) it is immaterial—

(i) to whom payment is made, and

(ii) who receives benefit from the payment.

Commencement Information

I308 S. 249 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

250 Single-machine supply and maintenance permits

(1) A person does not commit an offence under section 33 or 243(1) by reason only of the fact that he supplies, repairs, installs or maintains a gaming machine or part of a gaming machine in accordance with a permit under this section.

(2) A person may apply to the Commission for a permit authorising him to supply, repair, install or maintain a gaming machine or part of a gaming machine.

(3) An application under this section must—
- (a) be made in writing,
- (b) specify the gaming machine or part in relation to which the permit is sought,
- (c) give such details of the activity in relation to which the permit is sought as the Commission may direct,
- (d) be in such form, and contain such other information, as the Commission may direct, and
- (e) be accompanied by the prescribed fee.

(4) On consideration of an application under this section the Commission may—
- (a) grant the application and issue a permit to the applicant, or
- (b) refuse the application.

(5) The Commission may grant an application under this section only if satisfied that the licensing objectives are irrelevant to the activity for which the permit is sought.

(6) A permit under this section must specify—
- (a) a period, not exceeding one year, during which it has effect,
- (b) the machine or part to which it relates, and
- (c) the activities which it authorises.

(7) A permit under this section may be subject to a condition attached by the Commission.

(8) In subsection (3)(e) "prescribed" means prescribed by regulations made by the Secretary of State.

Commencement Information

I309 S. 250 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

General

251 Territorial application

This Part applies—

(a) to anything done in relation to a gaming machine which (or any part of which) is situated in Great Britain, and

(b) to anything done in Great Britain in relation to a gaming machine (irrespective of where it is situated).

Commencement Information

I310 S. 251 in force at 1.1.2007 by S.I. 2006/3272, art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

PART 11

LOTTERIES

Interpretation

252 Promoting a lottery

(1) For the purposes of this Act a person promotes a lottery if he makes or participates in making the arrangements for a lottery.

(2) In particular, a person promotes a lottery if he—

(a) makes arrangements for the printing of lottery tickets,

(b) makes arrangements for the printing of promotional material,

(c) arranges for the distribution or publication of promotional material,

(d) possesses promotional material with a view to its distribution or publication,

(e) makes other arrangements to advertise a lottery,

(f) invites a person to participate in a lottery,

(g) sells or supplies a lottery ticket,

(h) offers to sell or supply a lottery ticket,

(i) possesses a lottery ticket with a view to its sale or supply,

(j) does or offers to do anything by virtue of which a person becomes a member of a class among whom prizes in a lottery are to be allocated, or

(k) uses premises for the purpose of allocating prizes or for any other purpose connected with the administration of a lottery.

(3) In subsection (2) "promotional material" means a document which—

(a) advertises a specified lottery,

(b) invites participation in a specified lottery,

(c) contains information about how to participate in a specified lottery, or

(d) lists winners in a specified lottery.

(4) Where arrangements for a lottery are made by an external lottery manager on behalf of a society or authority, for the purposes of this Act both the external lottery manager and the society or authority promote the lottery.

Commencement Information

I311 S. 252 in force at 1.1.2007 by S.I. 2006/3272, art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

253 Lottery ticket

(1) For the purposes of this Act a document or article is a lottery ticket if it confers, or can be used to prove, membership of a class for the purpose of the allocation of prizes in a lottery.

(2) A reference in this Act to the sale or supply of a lottery ticket by a person includes a reference to a person doing anything as a result of which another person becomes a member of the class among whom prizes in a lottery are to be allocated.

(3) A reference in this Act to purchase of a lottery ticket includes a reference to any action by a person as a result of which he becomes a member of the class among whom prizes in a lottery are to be allocated.

Commencement Information
I312 S. 253 in force at 1.1.2007 by S.I. 2006/3272, art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

254 Proceeds and profits

(1) In this Act a reference to the proceeds of a lottery is a reference to the aggregate of amounts paid in respect of the purchase of lottery tickets.

(2) In this Act a reference to the profits of a lottery is a reference to—
- (a) the proceeds of the lottery, minus
- (b) amounts deducted by the promoters of the lottery in respect of—
  - (i) the provision of prizes,
  - (ii) sums to be made available for allocation in another lottery in accordance with a rollover, or
  - (iii) other costs reasonably incurred in organising the lottery.

Commencement Information
I313 S. 254 in force at 1.1.2007 by S.I. 2006/3272, art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

255 Draw

In this Act "draw", in relation to a lottery, includes any process by which a prize in the lottery is allocated.

Commencement Information
I314 S. 255 in force at 1.1.2007 by S.I. 2006/3272, art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

256 Rollover

(1) In this Act "rollover" in relation to a lottery means an arrangement whereby the fact that a prize is not allocated or claimed in one lottery increases the value of the prizes available for allocation in another lottery.

(2) For the purposes of this Act where prizes are allocated by means of more than one draw—

(a) the draws together constitute a single lottery if the class of persons among whom prizes are allocated is (and, by virtue of arrangements for the sale or supply of tickets, must be) the same in the case of each draw, and

(b) otherwise, the arrangements for each draw constitute a separate lottery.

Commencement Information

I315 S. 256 in force at 1.1.2007 by S.I. 2006/3272, art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

257 External lottery manager

A person acts as an external lottery manager for the purposes of this Act if he makes arrangements for a lottery on behalf of a society or authority of which he is not—

(a) a member,

(b) an officer, or

(c) an employee under a contract of employment.

Commencement Information

I316 S. 257 in force at 1.1.2007 by S.I. 2006/3272, art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

Offences

258 Promotion of lottery

(1) A person commits an offence if he promotes a lottery unless—

(a) the exception in subsection (2) or (3) applies, or

(b) the lottery is an exempt lottery.

(2) This section does not apply to activity by a person if—

(a) he holds an operating licence authorising the activity, and

(b) he acts in accordance with the terms and conditions of the licence.

(3) This section does not apply to activity by a person if—

(a) he acts, otherwise than as an external lottery manager, on behalf of a person who holds an operating licence authorising the activity, and

(b) the activity is carried on in accordance with the terms and conditions of the licence.

(4) It is a defence for a person charged with an offence under this section to show that he reasonably believed that—

(a) he was not committing the offence by reason of subsection (1)(b), (2) or (3),

(b) that the arrangement to which the charge relates was not a lottery, or

(c) that the arrangement to which the charge relates was a lottery forming part of the National Lottery.

(5) In this Act "exempt lottery" means a lottery which is exempt by virtue of a provision of Schedule 11.

Modifications etc. (not altering text)

C65 S. 258 excluded (1.1.2007) by The Gambling Act 2005 (Commencement No. 6 and Transitional Provisions) Order 2006 (S.I. 2006/3272), art. 1(1), **Sch. 4 para. 68(3)-(5)**

C66 S. 258 excluded (1.1.2007) by The Gambling Act 2005 (Commencement No. 6 and Transitional Provisions) Order 2006 (S.I. 2006/3272), art. 1(1), **Sch. 4 para. 70(3)-(5)**

Commencement Information

I317 S. 258(1)-(4) in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

I318 S. 258(5) in force at 1.10.2005 for specified purposes by S.I. 2005/2455, art. 2(1), **Sch.** (with art. 3)

I319 S. 258(5) in force at 1.9.2007 in so far as not already in force by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

259 Facilitating a lottery

(1) A person commits an offence if he facilitates a lottery unless—
- (a) the exception in subsection (3) applies, or
- (b) the lottery is an exempt lottery.

(2) For the purposes of this section a person facilitates a lottery if (and only if) he—
- (a) prints lottery tickets for a specified lottery,
- (b) prints promotional material for a specified lottery, or
- (c) advertises a specified lottery.

(3) This section does not apply to activity by a person if he acts in accordance with the terms and conditions of an operating licence.

(4) It is a defence for a person charged with an offence under this section to show that he reasonably believed—
- (a) that he was not committing the offence by reason of subsection (1)(b) or (3), or
- (b) that the arrangement to which the charge relates was not a lottery, or
- (c) that the arrangement to which the charge relates was a lottery forming part of the National Lottery.

(5) In subsection (2)(b) "promotional material" means a document which—
- (a) advertises a specified lottery,
- (b) invites participation in a specified lottery,
- (c) contains information about how to participate in a specified lottery, or
- (d) lists winners in a specified lottery.

Commencement Information

I320 S. 259 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

260 Misusing profits of lottery

(1) This section applies to a lottery in respect of which the promoter has stated (in whatever terms) a fund-raising purpose for the promotion of the lottery.

(2) A person commits an offence if he uses any part of the profits of a lottery to which this section applies for a purpose other than that stated.

(3) The reference in subsection (2) to using profits includes a reference to permitting profits to be used.

(4) In subsection (1) the reference to a statement of a purpose for the promotion of a lottery is a reference to a statement appearing—

(a) on lottery tickets, or

(b) in an advertisement for the lottery.

(5) In subsection (4)(b) "advertisement" in relation to a lottery includes any written notice announcing that a lottery will take place or inviting people to participate in a lottery (in either case whether or not it also gives other information).

Commencement Information

I321 S. 260 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

261 Misusing profits of exempt lottery

(1) This section applies to the following kinds of lottery—

(a) an incidental [F59]... lottery (within the meaning of Part 1 of Schedule 11),

(b) a private society lottery (within the meaning of Part 2 of that Schedule), [F60]...

[[F61](ba) a work lottery and a residents' lottery (within the meaning of Part 2 of that Schedule) except where the lottery has been organised in such a way as to ensure that no profits are made, and**]**

(c) a small society lottery (within the meaning of Part 4 of that Schedule).

(2) A person commits an offence if he uses any part of the profits of a lottery to which this section applies for a purpose other than one for which the lottery is permitted to be promoted in accordance with Schedule 11.

(3) Subsection (3) of section 260 shall have effect for the purpose of this section as it has effect for the purpose of that section.

Textual Amendments

F59 Word in s. 261(1)(a) omitted (6.4.2016) by virtue of The Legislative Reform (Exempt Lotteries) Order 2016 (S.I. 2016/124), arts. 1(1), **4(1)(b)(i)**

F60 Word in s. 261(1)(b) omitted (6.4.2016) by virtue of The Legislative Reform (Exempt Lotteries) Order 2016 (S.I. 2016/124), arts. 1(1), **4(1)(b)(ii)**

F61 S. 261(1)(ba) inserted (6.4.2016) by The Legislative Reform (Exempt Lotteries) Order 2016 (S.I. 2016/124), arts. 1(1), **4(1)(b)(iii)**

Commencement Information

I322 S. 261 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

262 Small society lottery: breach of condition

A non-commercial society commits an offence if—

(a) a lottery, purporting to be an exempt lottery under Part 4 of Schedule 11, is promoted on the society's behalf wholly or partly at a time when the society is not registered with a local authority in accordance with Part 5 of that Schedule,

(b) the society fails to comply with the requirements of paragraph 39 of that Schedule, or

(c) the society provides false or misleading information for the purposes of paragraph 39 of that Schedule.

Commencement Information

I323 S. 262 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

263 Penalty

(1) A person guilty of an offence under this Part shall be liable on summary conviction to—

(a) imprisonment for a term not exceeding 51 weeks,

(b) a fine not exceeding level 5 on the standard scale, or

(c) both.

(2) In the application of subsection (1) to Scotland the reference to 51 weeks shall have effect as a reference to six months.

[[F62](3) In the application of subsection (1) to England and Wales in relation to an offence committed under section 261(2) by virtue of section 261(1)(ba) before section 281(5) of the Criminal Justice Act 2003 comes into force, the reference in subsection (1)(a) to 51 weeks is to be read as a reference to 6 months.**]**

Textual Amendments

F62 S. 263(3) inserted (6.4.2016) by The Legislative Reform (Exempt Lotteries) Order 2016 (S.I. 2016/124), arts. 1(1), **4(1)(c)**

Commencement Information

I324 S. 263 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

Status: *Point in time view as at 25/05/2018. This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Gambling Act 2005. (See end of Document for details)*

Miscellaneous

264 Exclusion of the National Lottery

The preceding provisions of this Part do not apply to the National Lottery.

Commencement Information

I325 S. 264 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

General

265 Territorial application

(1) This Part applies to anything done in relation to a lottery—

(a) in Great Britain, or

(b) by the provision of, or by means of, remote gambling equipment situated in Great Britain.

(2) But this Part does not apply in relation to a lottery if—

(a) no person in Great Britain does anything by virtue of which he becomes a participant in the lottery, and

(b) no person in Great Britain possesses tickets for the lottery with a view to selling or supplying them to a person in Great Britain who thereby becomes a participant in the lottery.

(3) It is a defence for a person charged with an offence under section 258 or 259 to show that he reasonably believed that this Part did not and would not apply to the lottery, by reason of subsection (2) above.

Commencement Information

I326 S. 265 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

PART 12

CLUBS, PUBS, FAIRS, &C.

Clubs

266 Members' club

(1) In this Act members' club means a club—

(a) which is established and conducted wholly or mainly for purposes other than the provision of facilities for gaming (subject to subsection (2)),

(b) which is established and conducted for the benefit of its members (and which is not otherwise established or conducted as a commercial enterprise),

(c) which is not established with the purpose of functioning only for a limited period of time, and

(d) which has at least 25 individual members.

(2) A club is a members' club for the purposes of this Act despite subsection (1)(a) if—

(a) it is established or conducted wholly or mainly for the purpose of the provision of facilities for gaming of a prescribed kind, and

(b) facilities are not provided for any other kind of gaming in the course of the club's activities.

Commencement Information

I327 S. 266 in force at 21.5.2007 by S.I. 2006/3272, art. 2(3), **Sch. 3** (with arts. 7-11, 7-12, Sch. 4) (as amended by SI 2007/1157, art. 3(3), 4(2))

I328 S. 266 in force at 1.8.2007 by S.I. 2006/3272, art. 2(3A), **Sch. 3A** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/1157, arts. 3(4), 6, Sch. 2)

267 Commercial club

(1) In this Act commercial club means a club—

(a) which is established and conducted wholly or mainly for purposes other than the provision of facilities for gaming (subject to subsection (2)),

(b) which is not established with the purpose of functioning only for a limited period of time, and

(c) which has at least 25 individual members.

(2) A club is a commercial club for the purposes of this Act despite subsection (1)(a) if—

(a) it is established or conducted wholly or mainly for the purpose of the provision of facilities for gaming of a prescribed kind, and

(b) facilities are not provided for any other kind of gaming in the course of the club's activities.

Commencement Information

I329 S. 267 in force at 21.5.2007 by S.I. 2006/3272, art. 2(3), **Sch. 3** (with arts. 7-11, 7-12, Sch. 4) (as amended by SI 2007/1157, art. 3(3), 4(2))

I330 S. 267 in force at 1.8.2007 by S.I. 2006/3272, art. 2(3A), **Sch. 3A** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/1157, arts. 3(4), 6, Sch. 2)

268 Miners' welfare institute

(1) In this Act miners' welfare institute means an association—

(a) which is established and conducted for social and recreational purposes, and

(b) which satisfies subsection (2) or (4).

(2) An association satisfies this subsection if its affairs are managed by a group of individuals of whom at least two thirds are miners' representatives.

(3) In subsection (2) "miners' representative" means a person who—

(a) is nominated or appointed by a person who employs or has employed individuals in the course of a coal mining business,

(b) is nominated or appointed by the charitable trust known as the Coal Industry Social Welfare Organisation,

(c) is nominated or appointed by an organisation representing persons who are or were employed in connection with coal mining, or

(d) is or was employed in connection with coal mining;

and the group mentioned in subsection (2) must contain both one or more persons of a kind specified in paragraph (a) or (b) and one or more persons of a kind specified in paragraph (c) or (d).

(4) An association satisfies this subsection if—

(a) it operates on premises the use of which is regulated in accordance with a charitable trust, and

(b) the trust has received money from—

(i) the Miners' Welfare Fund established by section 20 of the Mining Industry Act 1920 (c. 50),

(ii) the former body corporate which was known as the Coal Industry Social Welfare Organisation and incorporated under the Companies Act 1948 (c. 38), or

(iii) the charitable trust known as the Coal Industry Social Welfare Organisation.

Commencement Information

I331 S. 268 in force at 21.5.2007 by S.I. 2006/3272, art. 2(3), **Sch. 3** (with arts. 7-11, 7-12, Sch. 4) (as amended by SI 2007/1157, art. 3(3), 4(2))

I332 S. 268 in force at 1.8.2007 by S.I. 2006/3272, art. 2(3A), **Sch. 3A** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/1157, arts. 3(4), 6, Sch. 2)

269 Exempt gaming

(1) Sections 33 and 37 shall not apply to the provision of facilities for equal chance gaming which satisfies the conditions of this section by—

(a) a members' club,

(b) a commercial club,

(c) a club that would be a members' club but for section 266(1)(a),

(d) a club that would be a commercial club but for section 267(1)(a), or

(e) a miners' welfare institute.

(2) The first condition of gaming for the purposes of subsection (1) is that the arrangements for the gaming satisfy the prescribed requirements (if any) in relation to—

(a) amounts that may be staked, or

(b) the amount or value of a prize.

(3) The second condition of gaming for the purposes of subsection (1) is that no amount is deducted or levied from sums staked or won.

(4) The third condition of gaming for the purposes of subsection (1) is that any participation fee does not exceed such maximum as may be prescribed.

(5) The fourth condition of gaming for the purposes of subsection (1) is that a game played on one set of premises is not linked with a game played on another set of premises.

(6) The fifth condition of gaming for the purposes of subsection (1), which does not apply to a club of a kind mentioned in subsection (1)(b) or (d), is that each person who participates—

(a) is a member of the club or institute who applied for membership, was nominated for membership or became a member, at least 48 hours before he participates, or

(b) is a guest of a member of the club or institute who would be entitled to participate by virtue of paragraph (a).

Commencement Information

I333 S. 269 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

270 Section 269: supplementary

(1) In section 269(1) a reference to the provision of facilities by a club or institute includes a reference to any provision of facilities made—

(a) on behalf of or by arrangement with the club or institute, and

(b) in the course of its activities.

(2) Regulations prescribing requirements in relation to stakes or prizes for the purposes of section 269(2) may, in particular—

(a) make different provision for different classes of club or institute;

(b) make different provision for different classes or descriptions of game.

(3) In section 269(3) the reference to a deduction or levy in respect of gaming provided by, on behalf of or by arrangement with a club or institute is to a deduction or levy made by or on behalf of—

(a) the club or institute, or

(b) a person providing facilities for gaming on behalf of, or by arrangement with, the club or institute.

(4) Regulations prescribing a maximum charge for the purposes of section 269(4) may, in particular—

(a) make different provision for different classes of club or institute;

(b) make provision depending on whether a club or institute holds a club gaming permit;

(c) make different provision for different classes or descriptions of game;

(d) make different provision for different classes or descriptions of fee.

(5) For the purposes of section 269(5) two games are linked if—

(a) the result of one game is or may be wholly or partly determined by reference to the result of the other game, or

Status: *Point in time view as at 25/05/2018. This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Gambling Act 2005. (See end of Document for details)*

(b) the amount of winnings available in one game is or may be wholly or partly determined by reference to the amount of participation in the other game;

and if a single game is played partly on one set of premises and partly on another it shall be treated as two linked games.

(6) For the purposes of section 269(6) a person shall not be treated as the guest of a member if the member extends an invitation—

(a) having had no previous acquaintance with the person, and

(b) for the purpose only of enabling the person to take advantage of facilities for gaming provided by or for the club or institute.

Commencement Information

I334 S. 270 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

271 Club gaming permit

(1) Sections 33, 37 and 242 shall not apply to the provision of facilities for gaming in accordance with a club gaming permit.

(2) A club gaming permit is a permit issued by a licensing authority authorising the provision of facilities for gaming—

(a) on premises on which a members' club or a miners' welfare institute operates, and

(b) in the course of the activities of the club or institute.

(3) A club gaming permit shall, by virtue of this section, authorise—

(a) making up to three gaming machines available for use, each of which must be of Category B, C or D,

(b) the provision of facilities for gaming which satisfies the conditions in section 269 except for the first condition, and

(c) the provision of facilities for games of chance, of such class or description as may be prescribed, in accordance with the conditions specified in subsection (4).

(4) Those conditions are—

(a) that no participation fee is charged otherwise than in accordance with regulations (which may make provision about the circumstances in which a fee may be charged and about the amount of a fee),

(b) that no amount is deducted or levied from sums staked or won otherwise than in accordance with regulations (which may make provision about the circumstances in which an amount may be deducted or levied, about the amount of the deduction or levy and about the method by which the amount is determined),

(c) that the public is excluded from any area of the club's or institute's premises where gaming is taking place, and

(d) that children and young persons are excluded from any area of the club's or institute's premises where gaming is taking place.

(5) Regulations under subsection (4)(a) or (b) may—

(a) make different provision for different classes of club or institute;
(b) make different provision for different classes or descriptions of game;
(c) make different provision for different classes or descriptions of fee, deduction or levy.

(6) A club gaming permit shall, by virtue of this subsection, be subject to the condition that each person who participates in gaming in reliance on the permit—
(a) is a member of the club or institute who applied for membership, was nominated for membership or became a member, at least 48 hours before he participates, or
(b) is a guest of a member of the club or institute who would be entitled to participate by virtue of paragraph (a).

(7) A club gaming permit shall, by virtue of this subsection, be subject to the conditions—
(a) that no child or young person use a Category B or C gaming machine on the club's or institute's premises, and
(b) that the holder comply with any relevant provision of a code of practice under section 24 about the location and operation of a gaming machine.

Modifications etc. (not altering text)

C67 S. 271 modified (1.9.2007) by Categories of Gaming Machine Regulations 2007 (S.I. 2007/2158), regs. 1(b), **6(4)**

Commencement Information

I335 S. 271(1)(3)-(7) in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

I336 S. 271(2) in force at 21.5.2007 by S.I. 2006/3272, art. 2(3), **Sch. 3** (with arts. 7-11, 7-12, Sch. 4) (as amended by SI 2007/1157, art. 3(3), 4(2))

I337 S. 271(2) in force at 1.8.2007 by S.I. 2006/3272, art. 2(3A), **Sch. 3A** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/1157, arts. 3(4), 6, Sch. 2)

272 Section 271: supplementary

(1) For the purposes of section 271(4)(b) the reference to a deduction or levy in respect of gaming provided by, on behalf of or by arrangement with a club or institute is to a deduction or levy made by or on behalf of—
(a) the club or institute, or
(b) a person providing facilities for gaming on behalf of, or by arrangement with, the club or institute.

(2) In section 271(4)(c) “the public” means persons other than—
(a) members of the club or institute,
(b) guests of members of the club or institute,
(c) staff of the club or institute, and
(d) persons providing services to or for the club or institute.

(3) For the purposes of section 271(4)(c) and (d) a reference to an area where gaming is taking place is a reference to any place in which it is possible to participate in the gaming.

(4) For the purposes of section 271(6) and subsection (2) above a person shall not be treated as the guest of a member if the member extends an invitation—
  (a) having had no previous acquaintance with the person, and
  (b) for the purpose only of enabling the person to take advantage of facilities for gaming.

Commencement Information

I338 S. 272 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

273 Club machine permit

(1) Sections 37 and 242 shall not apply to making a gaming machine available for use in accordance with a club machine permit.

(2) A club machine permit is a permit issued by a licensing authority authorising up to three gaming machines, each of which must be of Category B, C or D, to be made available for use—
  (a) on premises on which a members' club, a commercial club or a miners' welfare institute operates, and
  (b) in the course of the activities of the club or institute.

(3) A club machine permit held by a members' club or a miners' welfare institute shall, by virtue of this subsection, be subject to the condition that each person to whom a machine is made available for use in reliance on the permit—
  (a) is a member of the club or institute who applied for membership, was nominated for membership or became a member, at least 48 hours before he uses the machine, or
  (b) is a guest of a member of the club or institute who would be entitled to use the machine by virtue of paragraph (a).

(4) A club machine permit shall, by virtue of this subsection, be subject to the conditions—
  (a) that no child or young person use a Category B or C gaming machine on the club's or institute's premises, and
  (b) that the holder comply with any relevant provision of a code of practice under section 24 about the location and operation of a gaming machine.

(5) For the purposes of subsection (3)(b) a person shall not be treated as the guest of a member if the member extends an invitation—
  (a) having had no previous acquaintance with the person, and
  (b) for the purpose only of enabling the person to take advantage of facilities for gaming.

Modifications etc. (not altering text)

C68 S. 273 modified (1.9.2007) by Categories of Gaming Machine Regulations 2007 (S.I. 2007/2158), regs. 1(b), **6(4)**

Status: *Point in time view as at 25/05/2018. This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Gambling Act 2005. (See end of Document for details)*

Commencement Information

I339 S. 273(1)(3)-(5) in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

I340 S. 273(2) in force at 21.5.2007 by S.I. 2006/3272, art. 2(3), **Sch. 3** (with arts. 7-11, 7-12, Sch. 4) (as amended by SI 2007/1157, art. 3(3), 4(2))

I341 S. 273(2) in force at 1.8.2007 by S.I. 2006/3272, art. 2(3A), **Sch. 3A** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/1157, arts. 3(4), 6, Sch. 2)

274 Procedure, &c.

(1) Schedule 12 makes further provision about club gaming permits and club machine permits.

(2) Subsection (1) does not apply in relation to Scotland if the applicant for or holder of the permit in question is the holder of [F63]... a relevant Scottish licence or if he falls within such other description as may be specified in regulations under section 285(1).

Textual Amendments

F63 Words in s. 274(2) repealed (1.9.2009 at 5.00 a.m.) by The Licensing (Scotland) Act 2005 (Consequential Provisions) Order 2009 (S.S.I. 2009/248), art. 1(1), **sch. 2** (with art. 3)

Modifications etc. (not altering text)

C69 S. 274(2) excluded (1.1.2007) by The Gambling Act 2005 (Commencement No. 6 and Transitional Provisions) Order 2006 (S.I. 2006/3272), art. 1(1), **Sch. 4 para. 84(14)** (with art. 12(2)-(5), Sch. 4 paras. 81-85)

C70 S. 274(2) excluded (1.1.2007) by The Gambling Act 2005 (Commencement No. 6 and Transitional Provisions) Order 2006 (S.I. 2006/3272), art. 1(1), **Sch. 4 para. 92(14)** (with art. 12(4), (5), (7)-(9), Sch. 4 paras. 89-93)

Commencement Information

I342 S. 274 in force at 21.5.2007 for specified purposes by S.I. 2006/3272, art. 2(3), **Sch. 3** (with arts. 7-11, 7-12, Sch. 4) (as amended by SI 2007/1157, art. 3(3), 4(2))

I343 S. 274 in force at 1.8.2007 for specified purposes by S.I. 2006/3272, art. 2(3A), **Sch. 3A** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/1157, arts. 3(4), 6, Sch. 2)

I344 S. 274(1) in force at 1.9.2007 in so far as not already in force by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

I345 S. 274(2) in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

275 Bingo

(1) The disapplication of section 33 by section 269 or 271 shall not apply to high turnover bingo played during a high turnover period.

(2) Bingo played in the course of the activities of a club or institute in any period of seven days is high turnover bingo if—

(a) the aggregate of stakes at bingo played during the period in the course of the activities of the club or institute exceeds £2,000, or

(b) the aggregate of prizes at bingo played during the period in the course of the activities of the club or institute exceeds £2,000.

(3) A high turnover period begins in relation to a club or institute at the end of a period of seven days during which—

(a) the aggregate of stakes at bingo played in the course of the activities of the club or institute exceeds £2,000, or

(b) the aggregate of prizes at bingo played in the course of the activities of the club or institute exceeds £2,000.

(4) A high turnover period expires at the end of the year beginning with the first day of the period of seven days which caused the high turnover period to begin.

(5) A period of seven days any of which is in a high turnover period does not cause a new high turnover period to begin.

(6) A club or institute in relation to which a high turnover period begins shall, unless the club or institute holds a bingo operating licence, inform the Commission as soon as is reasonably practicable.

(7) A club or institute commits an offence if it fails without reasonable excuse to comply with subsection (6).

(8) A club or institute guilty of an offence under subsection (7) shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(9) The Secretary of State may by order vary a monetary amount specified in this section.

Commencement Information

I346 S. 275 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

276 Interpretation

In sections 266 to 275—

"prescribed" means prescribed by regulations, and

"regulations" means regulations made by the Secretary of State.

Commencement Information

I347 S. 276 in force at 21.5.2007 by S.I. 2006/3272, art. 2(3), **Sch. 3** (with arts. 7-11, 7-12, Sch. 4) (as amended by SI 2007/1157, art. 3(3), 4(2))

I348 S. 276 in force at 1.8.2007 by S.I. 2006/3272, art. 2(3A), **Sch. 3A** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/1157, arts. 3(4), 6, Sch. 2)

Pubs, &c.

277 Alcohol licence

In this Act—

(a) "alcohol licence" means a premises licence under Part 3 of the Licensing Act 2003 (c. 17),

(b) "on-premises alcohol licence" means a premises licence under that Part which authorises the supply of alcohol for consumption on the licensed premises, and

[[F64](c) "relevant Scottish licence" means a premises licence issued under the Licensing (Scotland) Act 2005, except where such a licence only applies to the sale of alcohol for consumption off the premises.**]**

Textual Amendments

F64 S. 277(c) substituted (1.9.2009 at 5.00 a.m.) by The Licensing (Scotland) Act 2005 (Consequential Provisions) Order 2009 (S.S.I. 2009/248), **sch. 1 para. 12(6)** (with art. 3)

Commencement Information

I349 S. 277 in force at 21.5.2007 by S.I. 2006/3272, art. 2(3), **Sch. 3** (with arts. 7-11, 7-12, Sch. 4) (as amended by SI 2007/1157, art. 3(3), 4(2))

I350 S. 277 in force at 1.8.2007 by S.I. 2006/3272, art. 2(3A), **Sch. 3A** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/1157, arts. 3(4), 6, Sch. 2)

278 Application of sections 279 to 284

(1) Sections 279 to 284 apply to premises (other than a vehicle)—

(a) in respect of which an on-premises alcohol licence or relevant Scottish licence has effect,

(b) which contain a bar at which alcohol is served for consumption on the premises (without a requirement that alcohol is served only with food), and

(c) at a time when alcohol may be supplied in reliance on the alcohol licence or sold for consumption on the premises in reliance on the relevant Scottish licence.

(2) In those sections a reference to a licensing authority includes a reference to the Sub-Treasurer of the Inner Temple and the Under-Treasurer of the Middle Temple.

Commencement Information

I351 S. 278 in force at 21.5.2007 by S.I. 2006/3272, art. 2(3), **Sch. 3** (with arts. 7-11, 7-12, Sch. 4) (as amended by SI 2007/1157, art. 3(3), 4(2))

I352 S. 278 in force at 1.8.2007 by S.I. 2006/3272, art. 2(3A), **Sch. 3A** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/1157, arts. 3(4), 6, Sch. 2)

279 Exempt gaming

(1) Sections 33 and 37 shall not apply to the provision of facilities for equal chance gaming which—

(a) takes place on premises to which this section applies, and

(b) satisfies the conditions of this section.

(2) The first condition of gaming for the purposes of subsection (1) is that the arrangements for the gaming satisfy the prescribed requirements in relation to—

(a) limiting amounts that may be staked, or

(b) limiting the amount or value of a prize.

(3) The second condition of gaming for the purposes of subsection (1) is that no amount is deducted or levied from sums staked or won.

(4) The third condition of gaming for the purposes of subsection (1) is that no participation fee is charged.

(5) The fourth condition of gaming for the purposes of subsection (1) is that a game played on one set of premises is not linked with a game played on another set of premises.

(6) The fifth condition of gaming for the purposes of subsection (1) is that children and young persons are excluded from participation.

Commencement Information

I353 S. 279 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

280 Section 279: supplementary

(1) In section 279(2) "prescribed" means prescribed by regulations made by the Secretary of State; and regulations may, in particular, make different provision for different classes or descriptions of game.

(2) For the purposes of section 279(5) two games are linked if—

(a) the result of one game is or may be wholly or partly determined by reference to the result of the other game, or

(b) the amount or value of a prize available in one game is or may be wholly or partly determined by reference to the extent of participation in the other game;

and if a single game is played partly on one set of premises and partly on another it shall be treated as two linked games.

Commencement Information

I354 S. 280 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

281 Bingo

(1) The disapplication of section 33 by section 279 shall not apply to high turnover bingo played during a high turnover period.

(2) Bingo played on premises in any period of seven days is high turnover bingo if—

(a) the aggregate of stakes at bingo played on the premises during the period exceeds £2,000, or

(b) the aggregate of prizes at bingo played on the premises during the period exceeds £2,000.

(3) A high turnover period begins in relation to premises at the end of a period of seven days during which—

(a) the aggregate of stakes at bingo played on the premises exceeds £2,000, or

(b) the aggregate of prizes at bingo played on the premises exceeds £2,000.

(4) A high turnover period expires at the end of the year beginning with the first day of the period of seven days which caused the high turnover period to begin.

(5) A period of seven days any of which is in a high turnover period does not cause a new high turnover period to begin.

(6) The holder of an on-premises alcohol licence or relevant Scottish licence for premises in relation to which a high turnover period begins shall, unless he holds a bingo operating licence, inform the Commission as soon as is reasonably practicable.

(7) A person commits an offence if he fails without reasonable excuse to comply with subsection (6).

(8) A person guilty of an offence under subsection (7) shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(9) The Secretary of State may by order vary a monetary amount specified in this section.

Commencement Information

I355 S. 281 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

282 Gaming machines: automatic entitlement

(1) Sections 37 and 242 shall not apply to making one or two gaming machines, each of which is of Category C or D, available for use on premises to which this section applies, provided that the conditions in subsections (2) and (3) are satisfied.

(2) The first condition is that the person who holds the on-premises alcohol licence or the relevant Scottish licence sends the licensing authority—

(a) written notice of his intention to make gaming machines available for use in reliance on subsection (1), and

(b) the prescribed fee.

(3) The second condition is that any relevant provision of a code of practice under section 24 about the location and operation of a gaming machine is complied with.

(4) Subsection (1) does not disapply section 37 or 242 in respect of premises at a time when gaming machines are made available for use on those premises in reliance on a club gaming permit or a club machine permit.

(5) In this section "prescribed" means—

(a) in the case of premises in respect of which an on-premises alcohol licence has effect, prescribed by regulations made by the Secretary of State, and

(b) in the case of premises in respect of which a relevant Scottish licence has effect, prescribed by regulations made by the Scottish Ministers.

Commencement Information

I356 S. 282(1)(3)-(5) in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

I357 S. 282(2) in force at 1.8.2007 for specified purposes by S.I. 2006/3272, art. 2(3A), **Sch. 3A** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/1157, arts. 3(4), 6, Sch. 2)

I358 S. 282(2) in force at 1.9.2007 in so far as not already in force by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

283 Licensed premises gaming machine permits

(1) A person does not commit an offence under section 37 or 242 if he makes a gaming machine of Category C or D available in accordance with a licensed premises gaming machine permit.

(2) A licensed premises gaming machine permit is a permit issued by a licensing authority authorising a person to make gaming machines of Category C or D (or both) available for use on premises to which this section applies.

(3) A licensed premises gaming machine permit shall, by virtue of this subsection, be subject to the condition that the holder comply with any relevant provision of a code of practice under section 24 about the location and operation of a gaming machine.

(4) Subsection (1) does not disapply section 37 or 242 in respect of premises at a time when gaming machines are made available for use on those premises in reliance on a club gaming permit or a club machine permit.

(5) Schedule 13, which makes further provision about licensed premises gaming machine permits, shall have effect except in relation to Scotland.

Commencement Information

I359 S. 283(1)(3)(4) in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

I360 S. 283(2) in force at 21.5.2007 by S.I. 2006/3272, art. 2(3), **Sch. 3** (with arts. 7-11, 7-12, Sch. 4) (as amended by SI 2007/1157, art. 3(3), 4(2))

I361 S. 283(2) in force at 1.8.2007 by S.I. 2006/3272, art. 2(3A), **Sch. 3A** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/1157, arts. 3(4), 6, Sch. 2)

I362 S. 283(5) in force at 21.5.2007 for specified purposes by S.I. 2006/3272, art. 2(3), **Sch. 3** (with arts. 7-11, 7-12, Sch. 4) (as amended by SI 2007/1157, art. 3(3), 4(2))

I363 S. 283(5) in force at 1.8.2007 for specified purposes by S.I. 2006/3272, art. 2(3A), **Sch. 3A** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/1157, arts. 3(4), 6, Sch. 2)

I364 S. 283(5) in force at 1.9.2007 in so far as not already in force by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

284 Removal of exemption

(1) A licensing authority may make an order disapplying section 279 or section 282(1) to specified premises.

(2) A licensing authority may make an order disapplying a section under subsection (1) only if they think that—

(a) the application of the section is not reasonably consistent with pursuit of the licensing objectives,

(b) gaming has taken place on the premises in purported reliance on the section but in breach of a condition of that section,

(c) the premises are mainly used or to be used for gaming, or

(d) an offence under this Act has been committed on the premises.

(3) Before making an order under subsection (1) a licensing authority shall—

(a) give the holder of the on-premises alcohol licence or of the relevant Scottish licence ("the licensee") at least 21 days' notice of the authority's intention to consider making an order,

(b) consider any representations made by the licensee,

(c) hold a hearing if the licensee requests one, and

(d) comply with any prescribed requirements for the procedure to be followed in considering whether to make an order.

(4) If a licensing authority make an order under subsection (1), they shall as soon as is reasonably practicable give the licensee—

(a) a copy of the order, and

(b) written reasons for the decision to make the order.

(5) A licensee may appeal against the making of an order under subsection (1).

(6) An appeal under subsection (5) must be instituted—

(a) in the magistrates' court for a local justice area in which the premises to which the appeal relates are wholly or partly situated,

(b) by notice of appeal given to the designated officer, and

(c) within the period of 21 days beginning with the day on which the appellant receives a copy of the order against which the appeal is brought.

(7) On an appeal the magistrates' court may—

(a) dismiss the appeal;

(b) allow the appeal and quash the order made by the licensing authority;

(c) make an order about costs.

(8) In relation to premises in Scotland—

(a) subsection (6)(a) shall have effect as if it referred to a sheriff within whose sheriffdom the premises are wholly or partly situated,

(b) subsection (6)(b) shall not have effect,

(c) the reference in subsection (7) to the magistrates' court shall have effect as a reference to the sheriff, and

(d) the reference in subsection (7)(c) to costs shall have effect as a reference to expenses.

(9) In this section, "prescribed" means prescribed by regulations made by the Secretary of State.

Commencement Information

I365 S. 284 in force at 21.5.2007 by S.I. 2006/3272, art. 2(3), **Sch. 3** (with arts. 7-11, 7-12, Sch. 4) (as amended by SI 2007/1157, art. 3(3), 4(2))

I366 S. 284 in force at 1.8.2007 by S.I. 2006/3272, art. 2(3A), **Sch. 3A** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/1157, arts. 3(4), 6, Sch. 2)

Status: *Point in time view as at 25/05/2018. This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Gambling Act 2005. (See end of Document for details)*

Clubs, pubs &c: special provision for Scotland

285 Permits

(1) The Scottish Ministers may, with the consent of the Secretary of State, by regulations provide that such provisions as are set out in the regulations are to apply in relation to—

(a) a club gaming permit or club machine permit, in place of Schedule 12 if the applicant for or holder of the permit is the holder of [F65]... a relevant Scottish licence **[**[F66]and the premises are premises to which section 125(1) of the Licensing (Scotland) Act 2005 applies**]**, or

(b) a licensed premises gaming machine permit, in place of Schedule 13, if the applicant for or holder of the permit is the holder of a relevant Scottish licence **[**[F67]and the premises are premises to which section 125(1) of the Licensing (Scotland) Act 2005 does not apply**]**,

or if the applicant for or holder of the permit falls within such other description as may be specified in the regulations.

(2) Regulations under subsection (1) may amend, revoke or otherwise modify any enactment in so far as it appears to the Scottish Ministers necessary or expedient to do so for the purposes of that subsection.

Textual Amendments

F65 Words in s. 285(1)(a) omitted (1.9.2009 at 5.00 a.m.) by virtue of The Licensing (Scotland) Act 2005 (Consequential Provisions) Order 2009 (S.S.I. 2009/248), **sch. 1 para. 12(7)(a)(i)** (with art. 3)

F66 Words in s. 285(1)(a) inserted (1.9.2009 at 5.00 a.m.) by The Licensing (Scotland) Act 2005 (Consequential Provisions) Order 2009 (S.S.I. 2009/248), **sch. 1 para. 12(7)(a)(ii)** (with art. 3)

F67 Words in s. 285(1)(b) inserted (1.9.2009 at 5.00 a.m.) by The Licensing (Scotland) Act 2005 (Consequential Provisions) Order 2009 (S.S.I. 2009/248), **sch. 1 para. 12(7)(b)** (with art. 3)

Commencement Information

I367 S. 285 in force at 1.1.2007 by S.I. 2006/3272, art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

I368 S. 285 in force at 21.5.2007 for specified purposes by S.I. 2006/3272, art. 2(2), **Sch. 2** (with arts. 7-11, 7-12, Sch. 4) (as amended by S.I. 2007/1157, arts. 3(3), 4)

Fairs

286 Interpretation: travelling fair

For the purposes of this Act—

(a) "fair" means a fair consisting wholly or principally of the provision of amusements, and

(b) a fair held on a day in a calendar year is a travelling fair" if provided—

(i) wholly or principally by persons who travel from place to place for the purpose of providing fairs, and

(ii) at a place no part of which has been used for the provision of a fair on more than 27 days in that calendar year.

Commencement Information

I369 S. 286 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

287 Gaming machines

A person does not commit an offence under section 37 or 242 if—

(a) he makes one or more Category D gaming machines available for use at a travelling fair, and

(b) facilities for gambling (whether by way of gaming machine or otherwise) amount together to no more than an ancillary amusement at the fair.

Commencement Information

I370 S. 287 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

PART 13

PRIZE GAMING

288 Meaning of "prize gaming"

Gaming is prize gaming for the purposes of this Act if neither the nature nor the size of a prize played for is determined by reference to—

(a) the number of persons playing, or

(b) the amount paid for or raised by the gaming.

Commencement Information

I371 S. 288 in force at 1.1.2007 by S.I. 2006/3272, art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

289 Prize gaming permits

(1) A person does not commit an offence under section 33 or 37 by providing facilities for prize gaming if—

(a) the gaming satisfies the conditions specified in section 293, and

(b) the facilities are provided in accordance with a prize gaming permit.

(2) A prize gaming permit is a permit issued by a licensing authority authorising a person to provide facilities for gaming with prizes on specified premises.

(3) Schedule 14 makes further provision about prize gaming permits.

Status: *Point in time view as at 25/05/2018. This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Gambling Act 2005. (See end of Document for details)*

Commencement Information

I372 S. 289(1) in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

I373 S. 289(2) in force at 13.11.2006 by S.I. 2006/2964, **art. 2(c)**

I374 S. 289(3) in force at 13.11.2006 for specified purposes by S.I. 2006/2964, **art. 2(c)**

I375 S. 289(3) in force at 21.5.2007 for specified purposes by S.I. 2006/3272, art. 2(2), **Sch. 2** (with arts. 7-11, 7-12, Sch. 4) (as amended by S.I. 2007/1157, arts. 3(3), 4)

I376 S. 289(3) in force at 1.9.2007 in so far as not already in force by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

290 Gaming and entertainment centres

(1) A person does not commit an offence under section 33 or 37 by providing facilities for prize gaming if—

(a) the gaming satisfies the conditions specified in section 293, and

(b) the facilities are provided in—

(i) an adult gaming centre, or

(ii) a licensed family entertainment centre.

(2) A person does not commit an offence under section 33 or 37 by providing facilities for equal chance prize gaming if—

(a) the gaming satisfies the conditions specified in section 293, and

(b) the facilities are provided on premises in respect of which a family entertainment centre gaming machine permit has effect.

Commencement Information

I377 S. 290 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

291 Bingo halls

(1) A person does not commit an offence under section 33 or 37 by providing facilities for prize gaming in premises in respect of which a bingo premises licence has effect.

(2) A condition may be attached under section 75 or 78 to an operating licence so as—

(a) to prevent facilities for a specified description of game from being provided in reliance on subsection (1), or

(b) to provide for subsection (1) to apply, whether generally or only in connection with a specified description of game, subject to specified conditions or only in specified circumstances.

(3) A condition attached under section 78 by virtue of subsection (2) above may, in particular, relate to a matter listed in section 91(1).

(4) Subsection (1) may not be disapplied or modified—

(a) by way of a condition attached to an operating licence under section 77, or

(b) by way of a condition attached to a premises licence under section 167, 168 or 169.

Modifications etc. (not altering text)

C71 S. 291(1) restricted (28.7.2007) by Gambling Act 2005 (Operating Licence Conditions) Regulations 2007 (S.I. 2007/2257), regs. 1(1), **3(2)**

Commencement Information

I378 S. 291 in force at 1.1.2007 for specified purposes by S.I. 2006/3272, art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

I379 S. 291 in force at 1.9.2007 in so far as not already in force by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

292 Fairs

A person does not commit an offence under section 33 or 37 by providing facilities for equal chance prize gaming if—

(a) the gaming satisfies the conditions specified in section 293,

(b) the facilities are provided at a travelling fair, and

(c) facilities for gambling (in whatever form) amount together to no more than an ancillary amusement at the fair.

Commencement Information

I380 S. 292 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

293 Conditions for prize gaming

(1) This section specifies the conditions mentioned in sections 289(1), 290(1) and (2) and 292 for prize gaming.

(2) The first condition is compliance with such limits as may be prescribed in respect of participation fees (and those limits may, in particular, relate to players, games or a combination; and different limits may be prescribed in respect of different classes or descriptions of fee).

(3) The second condition is that—

(a) all the chances to participate in a particular game must be acquired or allocated on one day and in the place where the game is played,

(b) the game must be played entirely on that day, and

(c) the result of the game must be made public—

(i) in the place where the game is played, and

(ii) as soon as is reasonably practicable after the game ends, and in any event on the day on which it is played.

(4) The third condition is that a prize for which a game is played, or the aggregate of the prizes for which a game is played—

(a) where all the prizes are money, must not exceed the prescribed amount, and

(b) in any other case, must not exceed the prescribed value.

Status: *Point in time view as at 25/05/2018. This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Gambling Act 2005. (See end of Document for details)*

(5) The fourth condition is that participation in the game by a person does not entitle him or another person to participate in any other gambling (whether or not he or the other person would also have to pay in order to participate in the other gambling).

(6) In this section "prescribed" means prescribed by regulations made by the Secretary of State.

Commencement Information

I381 S. 293 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

294 Power to restrict exemptions

The Secretary of State may by order provide for sections 289, 290 and 292 not to have effect in relation to prize gaming of a specified description.

Commencement Information

I382 S. 294 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

PART 14

PRIVATE AND NON-COMMERCIAL GAMING AND BETTING

Private gaming and betting

295 Interpretation

Schedule 15 (which defines private gaming and betting) shall have effect.

Commencement Information

I383 S. 295 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

296 Exceptions to offences

(1) A person does not commit an offence under section 33 by providing facilities for—
- (a) private gaming, or
- (b) private betting.

(2) Section 37 shall not apply to or in respect of the use of premises to carry on—
- (a) private gaming, or
- (b) private betting.

(3) A person does not commit an offence under section 33 or 37 by making or accepting a bet, or by offering to make or accept a bet, if he acts otherwise than in the course of a business.

Commencement Information

I384 S. 296 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

Non-commercial gaming and betting

297 Interpretation

(1) For the purposes of this Act gaming is non-commercial if it takes place at a non-commercial event (whether as an incidental activity or as the principal or only activity).

(2) An event is non-commercial if the arrangements for the event are such that no part of the proceeds is to be appropriated for the purpose of private gain.

(3) For the purposes of subsection (2) the proceeds of an event are—

(a) the sums raised by the organisers (whether by way of fees for entrance or for participation, by way of sponsorship, by way of commission from traders or otherwise), minus

(b) amounts deducted by the organisers in respect of costs reasonably incurred in organising the event.

Commencement Information

I385 S. 297 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

298 Exceptions to offences

(1) A person does not commit an offence under section 33 by providing facilities for—

(a) non-commercial prize gaming which complies with the conditions in section 299, or

(b) non-commercial equal chance gaming which complies with the conditions in section 300.

(2) Section 37 shall not apply to or in respect of the use of premises to carry on—

(a) non-commercial prize gaming which complies with the conditions in section 299, or

(b) non-commercial equal chance gaming which complies with the conditions in section 300.

Commencement Information

I386 S. 298 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

Status: *Point in time view as at 25/05/2018. This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Gambling Act 2005. (See end of Document for details)*

299 Conditions for non-commercial prize gaming

(1) This section specifies the conditions for non-commercial prize gaming mentioned in section 298.

(2) The first condition is that players are informed that the purpose of the gaming is to raise money for a specified purpose other than that of private gain.

(3) The second condition is that the arrangements for the gaming are such that the profits will be applied for a purpose other than that of private gain.

(4) The third condition is that the non-commercial event of which the gaming is part does not take place—
- (a) on premises, other than a track, in respect of which a premises licence has effect,
- (b) on a track at a time when activities are being carried on in reliance on a premises licence, or
- (c) on premises at a time when activities are being carried on in reliance on a temporary use notice.

(5) The fourth condition is that the gaming is not remote.

(6) In this section "profits" in relation to gaming means—
- (a) the aggregate of amounts—
  - (i) paid by way of stakes, or
  - (ii) otherwise accruing to the person organising the gaming directly in connection with it, minus
- (b) amounts deducted by the person organising the gaming in respect of—
  - (i) the provision of prizes, or
  - (ii) other costs reasonably incurred in organising or providing facilities for the gaming.

Commencement Information

I387 S. 299 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

300 Conditions for non-commercial equal-chance gaming

(1) This section specifies the conditions for non-commercial equal-chance gaming mentioned in section 298.

(2) The first condition is that persons participating in the gaming are informed that the purpose of the gaming is to raise money for a specified purpose other than that of private gain.

(3) The second condition is that the arrangements for the gaming are such that the profits will be applied for a purpose other than that of private gain.

(4) The third condition is that the arrangements for the gaming ensure compliance with regulations of the Secretary of State—
- (a) limiting amounts staked;
- (b) limiting participation fees;

(c) limiting other amounts paid by a person in connection with the gaming;
(d) limiting a combination of matters specified in paragraphs (a) to (c);
(e) limiting the amount or value of a prize;
(f) limiting the aggregate amount or value of prizes.

(5) Regulations under subsection (4) may, in particular—
(a) make provision by reference to whether or not a game is part of a series;
(b) make provision by reference to whether or not the non-commercial event of which the gaming is part is associated, as defined by the regulations, with another event;
(c) limit stakes in relation to a participant in more than one game;
(d) make different provision for different kinds of game or for games played in different circumstances.

(6) The fourth condition is that the non-commercial event of which the gaming is part does not take place—
(a) on premises, other than a track, in respect of which a premises licence has effect,
(b) on a track at a time when activities are being carried on in reliance on a premises licence, or
(c) on premises at a time when activities are being carried on in reliance on a temporary use notice.

(7) The fifth condition is that the gaming is non-remote.

(8) In this section "profits" in relation to gaming means—
(a) the aggregate of amounts—
(i) paid by way of stakes, or
(ii) otherwise accruing to the person organising the gaming directly in connection with it, minus
(b) amounts deducted by the person organising the gaming in respect of—
(i) the provision of prizes, or
(ii) other costs reasonably incurred in organising or providing facilities for the gaming.

Commencement Information
I388 S. 300 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

301 Misusing profits of non-commercial prize gaming

(1) This section applies to—
(a) non-commercial prize gaming in respect of which a fund-raising purpose has been specified as mentioned in section 299(2), and
(b) non-commercial equal-chance gaming in respect of which a fund-raising purpose has been specified as mentioned in section 300(2).

(2) A person commits an offence if he uses any part of the profits of gaming to which this section applies for a purpose other than that specified.

(3) The reference in subsection (2) to the use of profits includes a reference to permitting profits to be used.

(4) A person guilty of an offence under this section shall be liable on summary conviction to—

(a) imprisonment for a term not exceeding 51 weeks,

(b) a fine not exceeding level 5 on the standard scale, or

(c) both.

(5) In the application of subsection (4) to Scotland the reference to 51 weeks shall have effect as a reference to six months.

(6) In this section "profits" has the same meaning as in sections 299 and 300.

Commencement Information

I389 S. 301 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

302 Non-commercial betting

For the purposes of this Act a betting transaction is non-commercial betting if no party to the transaction—

(a) enters it in the course of a business, or

(b) holds himself out as being in business in relation to the acceptance of bets.

Commencement Information

I390 S. 302 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

PART 15

INSPECTION

Inspectors

303 Enforcement officers

(1) The Commission—

(a) may designate employees of the Commission as enforcement officers for the purposes of this Act, and

(b) may appoint persons other than employees of the Commission as enforcement officers for the purposes of this Act.

(2) The Commission may pay to or in respect of an enforcement officer who is not an employee of the Commission sums by way of or in respect of—

(a) remuneration;

(b) allowances;
(c) expenses;
(d) pension;
(e) gratuity.

Commencement Information

I391 S. 303 in force at 21.5.2007 by S.I. 2006/3272, art. 2(2), **Sch. 2** (with arts. 7-11, 7-12, Sch. 4) (as amended by S.I. 2007/1157, arts. 3(3), 4)

304 Authorised persons

(1) In this Act—
(a) "authorised person" has the meaning given by this section, and
(b) a reference to an authorised local authority officer is a reference to a person who is an authorised person by virtue of subsection (2).

(2) An officer of a licensing authority is an authorised person for a purpose relating to premises if—
(a) the premises are wholly or partly situated in the authority's area, and
(b) the officer is designated by the authority as an authorised person for the purposes of this section.

(3) An officer of an authority other than a licensing authority is an authorised person for a purpose relating to premises if—
(a) the authority has statutory functions, for an area in which the premises are wholly or partly situated, in relation to minimising or preventing the risk of pollution of the environment or of harm to human health, and
(b) the officer is authorised by the authority for the purpose of exercising any of those statutory functions.

(4) The following are authorised persons for purposes relating to any premises—
[[F68](a) where Part 3 of the Fire (Scotland) Act 2005 (asp 5) applies, an enforcement officer appointed under section 61(3) of that Act,**]**
(b) an inspector appointed under section 19 of the Health and Safety at Work etc. Act 1974 (c. 37) (inspectors),
(c) an inspector or surveyor of ships appointed under section 256 of the Merchant Shipping Act 1995 (c. 21) (enforcement),
(d) a person who is within a class prescribed by the Secretary of State by regulations.

Textual Amendments

F68 S. 304(4)(a) substituted (S.) (1.10.2006) by Fire (Scotland) Act 2005 (Consequential Modifications and Savings) Order 2006 (S.S.I. 2006/475), art. 1, **sch. 1 para. 16(3)**

Commencement Information

I392 S. 304 in force at 21.5.2007 by S.I. 2006/3272, art. 2(2), **Sch. 2** (with arts. 7-11, 7-12, Sch. 4) (as amended by S.I. 2007/1157, arts. 3(3), 4)

Status: *Point in time view as at 25/05/2018. This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Gambling Act 2005. (See end of Document for details)*

Kinds of inspection

305 Compliance

A constable, enforcement officer or authorised person may undertake activities for the purpose of assessing—

(a) compliance with provision made by or by virtue of this Act;

(b) whether an offence is being committed under or by virtue of this Act.

Commencement Information

I393 S. 305 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

306 Suspected offence

(1) A constable or enforcement officer may enter premises if he reasonably suspects that an offence under this Act may be—

(a) being committed on the premises, or

(b) about to be committed on the premises.

(2) A justice of the peace may on the application of a constable or enforcement officer issue a warrant authorising a constable or enforcement officer to enter premises if the justice of the peace is satisfied—

(a) that there are reasonable grounds for suspecting that an offence under this Act has been committed on the premises,

(b) that there are reasonable grounds for suspecting that evidence of the commission of the offence may be found on the premises, and

(c) that at least one of the conditions in subsection (3) is satisfied.

(3) Those conditions are—

(a) that admission to the premises has been refused,

(b) that admission to the premises is likely to be refused unless a warrant is produced,

(c) that the purpose of entry may be frustrated or seriously prejudiced unless a constable or enforcement officer arriving at the premises can secure immediate entry, and

(d) that there is likely to be nobody at the premises capable of granting admission.

(4) A warrant may be granted in reliance on subsection (3)(a) or (b) only if the justice of the peace is satisfied—

(a) that notice has been given to a person occupying the premises, or having responsibility for their management, of intent to apply for a warrant, or

(b) that the purpose of entry may be frustrated or seriously prejudiced by the giving of notice under paragraph (a).

(5) A warrant under subsection (2) shall cease to have effect at the end of the period of 28 days beginning with the day of issue.

(6) In the application of this section to Scotland, any reference to a justice of the peace is to be construed as a reference to the sheriff or a justice of the peace.

Commencement Information

I394 S. 306 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

307 Inspection of gambling

(1) A constable, enforcement officer or authorised person may enter premises to which this section applies for a purpose specified in subsection (3).

(2) This section applies to premises if a constable, enforcement officer or authorised person reasonably suspects that facilities for gambling other than private and non-commercial gaming or betting may be being provided, may be about to be provided or have been provided, on the premises.

(3) The purposes mentioned in subsection (1) are—

(a) to discover whether facilities for gambling other than private and non-commercial gaming or betting are being provided, are about to be provided or have been provided on the premises,

(b) to determine whether an operating licence or premises licence is held in respect of the provision of facilities for gambling on the premises, and

(c) to determine whether facilities are being, will be or have been provided in accordance with the terms and conditions of an operating licence or premises licence.

Commencement Information

I395 S. 307 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

308 Operating licence holders

(1) A constable or enforcement officer may enter premises to which this section applies for the purpose specified in subsection (3).

(2) This section applies to premises which a constable or enforcement officer reasonably believes to be used by the holder of an operating licence wholly or partly for purposes connected with the licensed activities.

(3) The purpose mentioned in subsection (1) is to determine whether the licensed activities are being carried on in accordance with the terms and conditions of the operating licence.

Commencement Information

I396 S. 308 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

Status: *Point in time view as at 25/05/2018. This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Gambling Act 2005. (See end of Document for details)*

309 Family entertainment centres

(1) A constable, enforcement officer or authorised local authority officer may enter premises in respect of which an application has been made for a family entertainment centre gaming machine permit for a purpose connected with the consideration of the application.

(2) A constable, enforcement officer or authorised local authority officer may enter premises in respect of which a family entertainment centre gaming machine permit has effect for the purpose of determining whether the gaming machines used on the premises, and the arrangements for their use, comply with the requirements of this Act and regulations under it.

Commencement Information

I397 S. 309(1) in force at 21.5.2007 by S.I. 2006/3272, art. 2(2), **Sch. 2** (with arts. 7-11, 7-12, Sch. 4) (as amended by S.I. 2007/1157, arts. 3(3), 4)

I398 S. 309(2) in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

310 Premises licensed for alcohol

(1) An enforcement officer or an authorised local authority officer may enter premises in respect of which an application has been made under Schedule 13 for a purpose connected with the consideration of the application.

(2) A constable, enforcement officer or authorised local authority officer may enter premises in respect of which an on-premises alcohol licence has effect for the purpose of—

(a) determining whether gaming carried on satisfies the conditions in section 279;

(b) in the case of bingo played on the premises, determining—

(i) whether the terms and conditions of any relevant operating licence are being complied with;

(ii) whether section 281 applies;

(c) ascertaining the number and category of gaming machines being made available for use on the premises.

Commencement Information

I399 S. 310(1) in force at 21.5.2007 by S.I. 2006/3272, art. 2(3), **Sch. 3** (with arts. 7-11, 7-12, Sch. 4) (as amended by SI 2007/1157, art. 3(3), 4(2))

I400 S. 310(1) in force at 1.8.2007 by S.I. 2006/3272, art. 2(3A), **Sch. 3A** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/1157, arts. 3(4), 6, Sch. 2)

I401 S. 310(2) in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

311 Prize gaming permit

(1) A constable, enforcement officer or authorised local authority officer may enter premises in respect of which an application has been made for a prize gaming permit for a purpose connected with the consideration of the application.

(2) A constable, enforcement officer or authorised local authority officer may enter premises in respect of which a prize gaming permit has effect for the purposes of determining whether prize gaming on the premises complies with the requirements of this Act and regulations under it.

Commencement Information

I402 S. 311(1) in force at 21.5.2007 by S.I. 2006/3272, art. 2(2), **Sch. 2** (with arts. 7-11, 7-12, Sch. 4) (as amended by S.I. 2007/1157, arts. 3(3), 4)

I403 S. 311(2) in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

312 Clubs

(1) A constable or enforcement officer may enter premises to which this section applies for a purpose specified in subsection (3).

(2) This section applies to premises which a constable or enforcement officer reasonably believes to be used by a members' club, a commercial club or a miners' welfare institute.

(3) The purposes mentioned in subsection (1) are—

(a) to determine whether gaming is taking place on the premises or is about to take place on the premises,

(b) to determine whether any gaming that is taking place or is about to take place on the premises is in accordance with—

(i) section 269,

(ii) a club gaming permit, or

(iii) a club machine permit.

(4) An authorised local authority officer may enter premises in respect of which an application has been made for a club gaming permit or a club machine permit for a purpose connected with the consideration of the application.

Commencement Information

I404 S. 312(1)-(3) in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

I405 S. 312(4) in force at 21.5.2007 by S.I. 2006/3272, art. 2(3), **Sch. 3** (with arts. 7-11, 7-12, Sch. 4) (as amended by SI 2007/1157, art. 3(3), 4(2))

I406 S. 312(4) in force at 1.8.2007 by S.I. 2006/3272, art. 2(3A), **Sch. 3A** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/1157, arts. 3(4), 6, Sch. 2)

313 Licensed premises

(1) A constable, enforcement officer or authorised person may enter premises in respect of which an application for a premises licence has been made to assess, having regard to the licensing objectives, the likely effects of activity carried on in reliance on the premises licence.

(2) A constable, enforcement officer or authorised person may enter premises in respect of which a premises licence has effect for a purpose connected with a review under section 201.

Modifications etc. (not altering text)

C72 S. 313(2) applied (1.1.2007) by The Gambling Act 2005 (Commencement No. 6 and Transitional Provisions) Order 2006 (S.I. 2006/3272), art. 1(1), **Sch. 4 para. 64(6)**

Commencement Information

I407 S. 313(1) in force at 21.5.2007 by S.I. 2006/3272, art. 2(2), **Sch. 2** (with arts. 7-11, 7-12, Sch. 4) (as amended by S.I. 2007/1157, arts. 3(3), 4)

I408 S. 313(2) in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

314 Lotteries: registered societies

Where a society is registered with a local authority in accordance with Part 5 of Schedule 11, an enforcement officer or an authorised local authority officer may enter premises owned or used by the society for the purpose of making inquiries in connection with a lottery promoted on behalf of the society.

Commencement Information

I409 S. 314 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

315 Temporary use notice

(1) A constable, enforcement officer or authorised person may enter premises in respect of which a temporary use notice has been given to assess, having regard to the licensing objectives, the likely effects of activity carried on in reliance on the temporary use notice.

(2) A constable, enforcement officer or authorised person may enter premises in respect of which a temporary use notice has effect to determine whether an activity of a kind listed in section 37(1) is being carried on otherwise than in accordance with the temporary use notice.

Commencement Information

I410 S. 315 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

316 Authorisations: production on demand

(1) A constable or enforcement officer may require the holder of an operating licence to produce to the constable or enforcement officer within a specified period a copy of any authorisation given by the holder of the licence under section 93(2) or (3) or 94(2).

(2) While a person is holding himself out as willing to accept bets on behalf of the holder of an operating licence in accordance with section 93(2) or (3) or 94(2), a constable or enforcement officer may require the person to produce a copy of his authorisation under that section—
  (a) within a specified period, or
  (b) immediately.

(3) A constable or enforcement officer may require the holder of a casino premises licence to produce to the constable or enforcement officer within a specified period a copy of any authorisation given by the holder of the licence under section 174(3).

(4) While a person is carrying on an activity in reliance on an authorisation under section 174(3), a constable or enforcement officer may require the person to produce a copy of his authorisation under that section—
  (a) within a specified period, or
  (b) immediately.

(5) A person commits an offence if he fails without reasonable excuse to comply with a requirement imposed under this section.

(6) A person guilty of an offence under subsection (5) shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

Commencement Information

I411 S. 316 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

Powers and procedure

317 Powers

(1) A constable, enforcement officer or authorised person exercising a power under or by virtue of this Part to enter premises may—
  (a) inspect any part of the premises and any machine or other thing on the premises;
  (b) question any person on the premises;
  (c) require access to any written or electronic record which is kept on the premises;
  (d) require to be supplied with a copy, in such form as he directs, of an entry in a written or electronic record which is kept on the premises;
  (e) remove and retain anything if he reasonably believes that it constitutes or contains evidence of—
    (i) the commission of an offence under this Act, or
    (ii) the breach of a term or condition of a licence issued under this Act;
  (f) remove and retain anything if he reasonably believes that it is being used or has been used in the commission of an offence under this Act.

(2) The Secretary of State may by regulations make provision about the treatment of —
  (a) copies supplied under subsection (1)(d), and

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Changes to legislation: *There are currently no known outstanding effects for the Gambling Act 2005. (See end of Document for details)*

(b) things removed under subsection (1)(e) or (f).

(3) Regulations under subsection (2) may, in particular, make provision—

(a) about the retention, use, return, disposal or destruction of anything supplied or removed;

(b) conferring a right of appeal.

(4) The Secretary of State may by regulations make provision about the procedure to be followed in the exercise of a power under this section.

(5) Nothing in this Part authorises action to be taken in England and Wales in respect of anything of a kind specified in section 9(2) of the Police and Criminal Evidence Act 1984 (c. 60) (legally privileged material, &c.).

(6) A person exercising a power under or by virtue of this Part shall have regard to any relevant provision of a code of practice under that Act (and guidance under section 25 may refer to a provision of a code).

(7) Subsection (6) does not apply as respects the exercise of a power in relation to Scotland.

Commencement Information

I412 S. 317 in force at 21.5.2007 by S.I. 2006/3272, art. 2(2), **Sch. 2** (with arts. 7-11, 7-12, Sch. 4) (as amended by S.I. 2007/1157, arts. 3(3), 4)

318 Dwellings

(1) A power under this Part to enter premises without a warrant does not apply in relation to a dwelling.

(2) A justice of the peace may on the application of a constable, enforcement officer or authorised person issue a warrant authorising a constable, enforcement officer or authorised person to enter premises if the justice of the peace is satisfied—

(a) that, but for subsection (1), a constable, enforcement officer or authorised person would be able to enter the premises without a warrant in reliance on a provision of this Part, and

(b) that at least one of the conditions in subsection (3) is satisfied.

(3) Those conditions are—

(a) that admission to the premises has been refused,

(b) that admission to the premises is likely to be refused unless a warrant is produced,

(c) that the purpose of entry may be frustrated or seriously prejudiced unless a constable, enforcement officer or authorised person arriving at the premises can secure immediate entry, and

(d) that there is likely to be nobody at the premises capable of granting admission.

(4) A warrant may be granted in reliance on subsection (3)(a) or (b) only if the justice of the peace is satisfied—

(a) that notice has been given to a person occupying the premises, or having responsibility for their management, of intent to apply for a warrant, or

(b) that the purpose of entry may be frustrated or seriously prejudiced by the giving of notice under paragraph (a).

(5) A warrant under subsection (2) shall cease to have effect at the end of the period of 28 days beginning with the day of issue.

(6) In the application of this section or section 319 to Scotland, any reference to a justice of the peace is to be construed as a reference to the sheriff or a justice of the peace.

Commencement Information

I413 S. 318 in force at 21.5.2007 by S.I. 2006/3272, art. 2(2), **Sch. 2** (with arts. 7-11, 7-12, Sch. 4) (as amended by S.I. 2007/1157, arts. 3(3), 4)

319 Records

(1) A constable, enforcement officer or authorised person exercising a power of entry under or by virtue of this Part may exercise a power under section 317(1)(c) to (e) in relation to records (whether written or electronic) only if the records relate entirely to the matters to which the power of entry relates.

(2) A justice of the peace may on the application of a constable, enforcement officer or authorised person issue a warrant disapplying subsection (1) to a specified extent if the justice of the peace is satisfied that the disapplication is necessary.

(3) A warrant may be granted under subsection (2) only if the justice of the peace is satisfied—

(a) that notice has been given to a person in control of the records of intent to apply for a warrant, or

(b) that the purpose of exercising the power of entry may be frustrated or seriously prejudiced by the giving of notice under paragraph (a).

(4) A warrant under subsection (2) shall cease to have effect at the end of the period of 28 days beginning with the day of issue.

Commencement Information

I414 S. 319 in force at 21.5.2007 by S.I. 2006/3272, art. 2(2), **Sch. 2** (with arts. 7-11, 7-12, Sch. 4) (as amended by S.I. 2007/1157, arts. 3(3), 4)

320 Timing

A power under or by virtue of this Part may be exercised only at a reasonable time.

Commencement Information

I415 S. 320 in force at 21.5.2007 by S.I. 2006/3272, art. 2(2), **Sch. 2** (with arts. 7-11, 7-12, Sch. 4) (as amended by S.I. 2007/1157, arts. 3(3), 4)

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321 Evidence of authorisation

An enforcement officer or authorised person seeking to exercise a power under or by virtue of this Part must produce evidence of his identity and authority to a person (if there is one) who appears to the enforcement officer or authorised person to be occupying the relevant premises or to have responsibility for their management.

Commencement Information

I416 S. 321 in force at 21.5.2007 by S.I. 2006/3272, art. 2(2), **Sch. 2** (with arts. 7-11, 7-12, Sch. 4) (as amended by S.I. 2007/1157, arts. 3(3), 4)

322 Information

(1) The Secretary of State shall make regulations requiring a person who exercises a power under or by virtue of this Part to provide information about the power and its exercise.

(2) Regulations under subsection (1) shall, in particular, make provision about—

(a) the information to be provided (which may include ancillary information about a provision of this Act or another enactment or about a rule of law);

(b) the form and manner in which the information is to be provided;

(c) the person to whom, or the place at which, the information is to be provided (which may, in particular, include provision for the supply of a copy if requested by a person within a specified class);

(d) timing.

(3) A constable, enforcement officer or authorised person exercising a power under or by virtue of this Part shall comply with any relevant provision of regulations under this section.

Commencement Information

I417 S. 322 in force at 21.5.2007 by S.I. 2006/3272, art. 2(2), **Sch. 2** (with arts. 7-11, 7-12, Sch. 4) (as amended by S.I. 2007/1157, arts. 3(3), 4)

323 Use of force

(1) A constable may use reasonable force for the purpose of entering premises in pursuance of a power under or by virtue of this Part.

(2) An enforcement officer may use reasonable force for the purpose of entering premises in pursuance of a power under or by virtue of section 306 or 307.

(3) An authorised person may use reasonable force for the purpose of entering premises in pursuance of a power under section 307.

Commencement Information

I418 S. 323 in force at 21.5.2007 by S.I. 2006/3272, art. 2(2), **Sch. 2** (with arts. 7-11, 7-12, Sch. 4) (as amended by S.I. 2007/1157, arts. 3(3), 4)

324 Person accompanying inspector, &c.

A constable, enforcement officer or authorised person exercising a power under or by virtue of this Part to enter premises may take one or more persons with him.

Commencement Information

I419 S. 324 in force at 21.5.2007 by S.I. 2006/3272, art. 2(2), **Sch. 2** (with arts. 7-11, 7-12, Sch. 4) (as amended by S.I. 2007/1157, arts. 3(3), 4)

325 Securing premises after entry

A person who enters premises in reliance on a power under or by virtue of this Part shall take reasonable steps to ensure that when he leaves the premises they are as secure as they were before he entered.

Commencement Information

I420 S. 325 in force at 21.5.2007 by S.I. 2006/3272, art. 2(2), **Sch. 2** (with arts. 7-11, 7-12, Sch. 4) (as amended by S.I. 2007/1157, arts. 3(3), 4)

326 Obstruction

(1) A person commits an offence if without reasonable excuse he obstructs, or fails to cooperate with, a constable, enforcement officer or authorised person who is exercising or seeking to exercise a power under or by virtue of this Part.

(2) A person guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Commencement Information

I421 S. 326 in force at 21.5.2007 by S.I. 2006/3272, art. 2(2), **Sch. 2** (with arts. 7-11, 7-12, Sch. 4) (as amended by S.I. 2007/1157, arts. 3(3), 4)

PART 16

ADVERTISING

327 Meaning of "advertising"

(1) For the purposes of this Act a person advertises gambling if—

(a) he does anything to encourage one or more persons to take advantage (whether directly or through an agent) of facilities for gambling,

(b) with a view to increasing the use of facilities for gambling, he brings them or information about them to the attention of one or more persons, or

(c) he participates in or facilitates an activity knowing or believing that it is designed to—

(i) encourage one or more persons to take advantage (whether directly or through an agent) of facilities for gambling, or

(ii) increase the use of facilities for gambling by bringing them or information about them to the attention of one or more persons.

(2) For the purposes of subsection (1) a person shall be treated as bringing facilities for gambling to the attention of one or more persons with a view to increasing the use of the facilities if—

(a) he enters into arrangements (whether by way of sponsorship, brand-sharing or otherwise) under which a name is displayed in connection with an event or product, and

(b) either—

(i) the provision of facilities for gambling is the sole or main activity undertaken under that name, or

(ii) the manner or context in which the name is displayed is designed to draw attention to the fact that facilities for gambling are provided under that name.

Commencement Information

I422 S. 327 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

328 Regulations

(1) The Secretary of State may make regulations controlling the advertising of gambling.

(2) The regulations may, in particular, make provision about—

(a) the form of advertisements;

(b) the content of advertisements;

(c) timing;

(d) location.

(3) Regulations by virtue of subsection (2)(b) may, in particular, require specified words to be included in advertisements.

(4) In making regulations under this section the Secretary of State shall, in particular, have regard to the need to protect children and other vulnerable persons from being harmed or exploited by gambling.

(5) A person commits an offence if he contravenes a requirement of regulations under this section.

(6) Regulations under this section may provide defences (whether similar to those provided by section 330 or otherwise).

(7) A person guilty of an offence under subsection (5) shall be liable on summary conviction to—

(a) imprisonment for a term not exceeding 51 weeks,

(b) a fine not exceeding level 5 on the standard scale, or

(c) both.

(8) Where a person commits an offence under this section by causing an advertisement to be displayed or made accessible, he shall be treated as committing the offence on each day during any part of which the advertisement is displayed or made accessible.

(9) Regulations under this section may, in particular, make provision generally or by reference to—
  (a) specified classes of gambling,
  (b) specified classes of advertisement, or
  (c) activity undertaken in or in connection with specified places.

(10) In the application of subsection (7) to Scotland the reference to 51 weeks shall have effect as a reference to six months.

Commencement Information

I423 S. 328 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

329 Broadcasting

(1) Regulations under section 328 may not make provision about advertising by way of television or radio services to which section 319 of the Communications Act 2003 (c. 21) applies.

(2) The Office of Communications shall under that section set, review and revise standards in respect of advertisements for gambling.

(3) In complying with subsection (2) the Office of Communications—
  (a) shall consult the Gambling Commission, and
  (b) shall ensure that the standards reflect the provisions of regulations under section 328.

(4) Regulations under section 328 may not make provision about advertising by way of a service which—
  (a) is provided by the British Broadcasting Corporation, and
  (b) would be licensable under Part 1 or 3 of the Broadcasting Act 1990 (c. 42) or under Part 1 or 2 of the Broadcasting Act 1996 (c. 55) were it provided by a person subject to licensing under that Part.

Commencement Information

I424 S. 329 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

330 Unlawful gambling

(1) A person commits an offence if he advertises unlawful gambling.

(2) For the purposes of this section advertised gambling is unlawful if—
  (a) in order for the gambling to take place as advertised without the commission of an offence under this Act it would or might be necessary to rely on a licence,

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notice, permit or registration under this Act or an an exception to an offence under this Act, and

(b) at the time of advertising—

(i) arrangements for a licence, notice, permit or registration, sufficient to prevent the commission of an offence under this Act if the gambling takes place as advertised, have not been completed, and

(ii) the arrangements for the gambling as advertised are not such as to ensure that an exception to the offence will apply.

(3) Subsection (1) does not apply to anything done by way of promoting a lottery.

(4) It is a defence for a person charged with an offence under subsection (1) by reference to action of a kind described in section 327(1)(a) or (b) to show that he reasonably believed that the advertised gambling was lawful.

(5) Where a person acts in a way described in section 327(1)(c) he commits the offence under subsection (1) above only if he knows or should know that the advertised gambling is unlawful.

(6) A person does not commit an offence under subsection (1) by reason only of delivering, transmitting or broadcasting a communication or making data available if—

(a) he acts in the course of a business of delivering, transmitting or broadcasting communications (in whatever form or by whatever means) or making data available, and

(b) the nature of the business is such that persons undertaking it have no control over the nature or content of the communications or data.

(7) A person guilty of an offence under this section shall be liable on summary conviction to—

(a) imprisonment for a term not exceeding 51 weeks,

(b) a fine not exceeding level 5 on the standard scale, or

(c) both.

(8) Where a person commits an offence under this section by causing an advertisement to be displayed or made accessible, he shall be treated as committing the offence on each day during any part of which the advertisement is displayed or made accessible.

(9) In the application of subsection (7) to Scotland the reference to 51 weeks shall have effect as a reference to six months.

Commencement Information

I425 S. 330 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

[F69]331 Foreign gambling

. . . . . .

Textual Amendments

F69 S. 331 repealed (1.11.2014) by Gambling (Licensing and Advertising) Act 2014 (c. 17), **ss. 3(1)**, 6(5); S.I. 2014/2444, art. 2(b) (as amended (29.9.2014) by S.I. 2014/2646, art. 2)

332 Territorial application: non-remote advertising

(1) Regulations under section 328 shall apply to anything in the way of advertising which is done—

(a) wholly or partly in Great Britain, and

(b) otherwise than by way of remote communication.

(2) The prohibition in section 330(1) applies to anything in the way of advertising which is done—

(a) wholly or partly in Great Britain, and

(b) otherwise than by way of remote communication.

[F70](3) . . . . . .

(4) For the purposes of this section the following are immaterial—

(a) the nature of gambling to which advertising relates (whether remote or non-remote), and

(b) the location of the gambling to which advertising relates.

Textual Amendments

F70 S. 332(3) omitted (1.11.2014) by virtue of Gambling (Licensing and Advertising) Act 2014 (c. 17), **ss. 3(2)(a)(i)**, 6(5); S.I. 2014/2444, art. 2(b) (as amended (29.9.2014) by S.I. 2014/2646, art. 2)

Commencement Information

I426 S. 332 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

333 Territorial application: remote advertising

(1) Regulations under section 328 shall have effect in relation to advertising by way of remote communication only if—

(a) the advertising satisfies the test in subsection (4),

(b) the advertising satisfies the additional test in subsection (5) or (6), if relevant, and

(c) the gambling to which the advertising relates satisfies the test in subsection (9).

(2) The prohibition in section 330(1) applies to advertising by way of remote communication only if—

(a) the advertising satisfies the test in subsection (4),

(b) [F71]...and

(c) the gambling to which the advertising relates satisfies the test in subsection (9).

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[F72](3) . . . . . .

(4) The test referred to in subsections **[**[F73](1)(a) and (2)(a) **]** is that the advertising involves—

(a) providing information, by whatever means (and whether or not using remote communication), intended to come to the attention of one or more persons in Great Britain,

(b) sending a communication intended to come to the attention of one or more persons in Great Britain,

(c) making data available with a view to its being accessed by one or more persons in Great Britain, or

(d) making data available in circumstances such that it is likely to be accessed by one or more persons in Great Britain.

(5) In the case of a broadcast by television, the additional test is that the broadcaster—

(a) is under the jurisdiction of the United Kingdom for the purposes of Directive **[**[F74]2010/13/EU of the European Parliament and of the Council on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services**]** , or

(b) is not under the jurisdiction of an EEA State for the purposes of that Directive.

(6) In the case of the dissemination of information by way of an information society service within the meaning of Directive 2000/31/EC on electronic commerce, the additional test is that the service provider—

(a) is established in the United Kingdom for the purposes of that Directive,

(b) is established in a non-EEA State for the purposes of that Directive, or

(c) has been notified that the conditions for derogation specified in Article 3(4) of that Directive are satisfied in relation to the application to the service provider of regulations under section 328 and of section 330.

(7) The reference to notification in subsection (6)(c) is a reference to written notice which—

(a) has been given by the Commission,

(b) has neither expired nor been withdrawn, and

(c) states whether the Commission's opinion as to satisfaction of the conditions for derogation relates—

(i) to the conditions specified in Article 3(4)(a) and (b), or

(ii) by virtue of Article 3(5), only to the conditions specified in Article 3(4)(a).

(8) In a case to which subsection (7)(c)(ii) applies, the Commission shall perform the duties of notification imposed on the United Kingdom by Article 3(5).

(9) The test referred to in subsections (1)(c) and (2)(c) is—

(a) in the case of non-remote gambling, that it is to take place in Great Britain, or

[[F75](b) in the case of remote gambling, that—

(i) at least one piece of remote gambling equipment to be used in providing facilities for the gambling is or will be situated in Great Britain, or

(ii) no such equipment is or will be situated in Great Britain, but the facilities are or will be capable of being used there.**]**

Textual Amendments

F71 S. 333(2)(b) omitted (1.11.2014) by virtue of Gambling (Licensing and Advertising) Act 2014 (c. 17), **ss. 4(2)**, 6(5); S.I. 2014/2444, art. 2(c) (as amended (29.9.2014) by S.I. 2014/2646, art. 2)

F72 S. 333(3) omitted (1.11.2014) by virtue of Gambling (Licensing and Advertising) Act 2014 (c. 17), **ss. 3(2)(a)(ii)**, 6(5); S.I. 2014/2444, art. 2(b) (as amended (29.9.2014) by S.I. 2014/2646, art. 2)

F73 Words in s. 333(4) substituted (1.11.2014) by Gambling (Licensing and Advertising) Act 2014 (c. 17), **ss. 3(2)(b)**, 6(5); S.I. 2014/2444, art. 2(b) (as amended (29.9.2014) by S.I. 2014/2646, art. 2)

F74 Words in s. 333(5)(a) substituted (18.8.2010) by The Audiovisual Media Services (Codification) Regulations 2010 (S.I. 2010/1883), regs. 1, **6**

F75 S. 333(9)(b) substituted (1.11.2014) by Gambling (Licensing and Advertising) Act 2014 (c. 17), **ss. 4(3)**, 6(5); S.I. 2014/2444, art. 2(c) (as amended (29.9.2014) by S.I. 2014/2646, art. 2)

Commencement Information

I427 S. 333 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

PART 17

LEGALITY AND ENFORCEABILITY OF GAMBLING CONTRACTS

334 Repeal of provisions preventing enforcement

(1) The following shall cease to have effect—

(a) section 1 of the Gaming Act 1710 (c. 19) (voiding of security for winnings or for repayment of gaming loan, &c.),

(b) remaining provisions of the Gaming Act 1835 (c. 41) (security deemed given for illegal consideration),

(c) section 18 of the Gaming Act 1845 (c. 109) (voiding of gaming contracts),

(d) section 1 of the Gaming Act 1892 (c. 9) (voiding of promise to repay), and

(e) in section 412 of the Financial Services and Markets Act 2000 (c. 8) (gaming contracts)—

(i) in subsection (1)(a), the words "section 18 of the Gaming Act 1845, section 1 of the Gaming Act 1892 or", and

(ii) subsection (1)(b).

(2) The repeals in subsection (1) do not permit enforcement of a right which is created, or which emanates from an agreement made, before this section comes into force.

Commencement Information

I428 S. 334 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

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335 Enforceability of gambling contracts

(1) The fact that a contract relates to gambling shall not prevent its enforcement.

(2) Subsection (1) is without prejudice to any rule of law preventing the enforcement of a contract on the grounds of unlawfulness (other than a rule relating specifically to gambling).

Commencement Information

I429 S. 335 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

336 Power of Gambling Commission to void bet

(1) The Commission may make an order under this subsection in relation to a bet accepted by or through the holder of—
- (a) a general betting operating licence,
- (b) a pool betting operating licence, or
- (c) a betting intermediary operating licence.

(2) Where the Commission makes an order under subsection (1) in relation to a bet—
- (a) any contract or other arrangement in relation to the bet is void, and
- (b) any money paid in relation to the bet (whether by way of stake, winnings, commission or otherwise) shall be repaid to the person who paid it, and repayment may be enforced as a debt due to that person.

(3) The Commission may make an order under subsection (1) in relation to a bet only if satisfied that the bet was substantially unfair.

(4) In considering whether a bet was unfair the Commission shall, in particular, take account of any of the following that applies—
- (a) the fact that either party to the bet supplied insufficient, false or misleading information in connection with it,
- (b) the fact that either party to the bet believed or ought to have believed that a race, competition or other event or process to which the bet related was or would be conducted in contravention of industry rules,
- (c) the fact that either party to the bet believed or ought to have believed that an offence under section 42 had been or was likely to be committed in respect of anything to which the bet related, and
- (d) the fact that either party to the bet was convicted of an offence under section 42 in relation to the bet.

(5) An order under subsection (1) may be made in relation to a bet only during the period of six months beginning with the day on which the result of the bet is determined.

(6) But subsection (5) shall not apply to an order made taking account of the fact that a party to the bet was convicted of an offence under section 42 in relation to it.

Modifications etc. (not altering text)

C73 Ss. 336-338 modified (1.9.2007) by Gambling Act 2005 (Horserace Totalisator Board) Order 2007 (S.I. 2007/2102), arts. 1, **5**

Commencement Information

I430 S. 336 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

337 Section 336: supplementary

(1) Where the Commission makes an order under section 336(1) in relation to a bet a party to the bet or to any contract or other arrangement in relation to the bet may appeal to the **[**[F76]First-tier Tribunal**]** ; and the following provisions of Part 7 shall have effect (with any necessary modifications) in relation to an appeal under this section as they have effect in relation to an appeal under that Part—

[F77](a) . . . . . .

[F78](b) . . . . . .

(c) section 144,

(d) section 145,

(e) section 146,

[F79](f) . . . . . .

[F80](g) . . . . . .

(2) The Commission may make an order under section 336(1) in relation to the whole, or any part or aspect of, a betting transaction.

(3) An order under section 336(1) may make incidental provision; in particular, an order may make provision about—

(a) the consequences of the order for bets connected with the bet which becomes void under the order;

(b) the consequences of the order for other parts or aspects of a betting transaction one part or aspect of which becomes void under the order.

(4) For the purposes of considering whether to make an order under section 336(1) in respect of a bet the Commission—

(a) may require a person by or through whom the bet is made or accepted to provide information or documents in relation to it, and

(b) may take into account information received from any other person.

(5) A person commits an offence if without reasonable excuse he fails to comply with a requirement under subsection (4).

(6) A person guilty of an offence under subsection (5) shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(7) In section 336(4)(b) "industry rules" means rules established by an organisation having, by virtue of an agreement, instrument or enactment, responsibility for the conduct of races, competitions or other events or processes.

Status: *Point in time view as at 25/05/2018. This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Gambling Act 2005. (See end of Document for details)*

Textual Amendments

F76 Words in s. 337(1) substituted (18.1.2010) by The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), art. 1(1), **Sch. 2 para. 103(a)** (with Sch. 5)

F77 S. 337(1)(a) omitted (18.1.2010) by virtue of The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), art. 1(1), **Sch. 2 para. 103(b)** (with Sch. 5)

F78 S. 337(1)(b) omitted (18.1.2010) by virtue of The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), art. 1(1), **Sch. 2 para. 103(b)** (with Sch. 5)

F79 S. 337(1)(f) omitted (18.1.2010) by virtue of The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), art. 1(1), **Sch. 2 para. 103(b)** (with Sch. 5)

F80 S. 337(1)(g) omitted (18.1.2010) by virtue of The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), art. 1(1), **Sch. 2 para. 103(b)** (with Sch. 5)

Modifications etc. (not altering text)

C73 Ss. 336-338 modified (1.9.2007) by Gambling Act 2005 (Horserace Totalisator Board) Order 2007 (S.I. 2007/2102), arts. 1, **5**

Commencement Information

I431 S. 337 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

338 Interim moratorium

(1) Where the Commission has reason to suspect that it may wish to make an order under section 336(1) in relation to a bet, the Commission may make an order under this subsection in relation to the bet.

(2) While an order under subsection (1) has effect in relation to a bet, an obligation to pay money in relation to the bet (whether by way of stake, winnings, commission or otherwise) shall have no effect.

(3) An order under subsection (1) shall have effect for the period of 14 days beginning with the day on which the order is made (subject to extension under subsection (4) and without prejudice to the making of a new order).

(4) The Commission may by order extend the period for which an order under subsection (1) has effect; and—

(a) an order under this subsection may extend that period by the addition of not more than 14 days, and

(b) more than one order may be made under this subsection in relation to a bet.

(5) The Commission may cancel an order under subsection (1) (without prejudice to the making of a new order).

(6) The Commission shall cancel an order under subsection (1) as soon as is reasonably practicable after it ceases to entertain the suspicion mentioned in that subsection.

(7) The Commission shall not be liable to make any payment on account only of the fact that it—

(a) has made an order under subsection (1), and

(b) not made a subsequent order under section 336(1).

(8) But subsection (7) is without prejudice to any power of a court in legal proceedings (whether for tort or otherwise).

Modifications etc. (not altering text)

C73 Ss. 336-338 modified (1.9.2007) by Gambling Act 2005 (Horserace Totalisator Board) Order 2007 (S.I. 2007/2102), arts. 1, **5**

Commencement Information

I432 S. 338 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

PART 18

MISCELLANEOUS AND GENERAL

Miscellaneous

339 Prize competitions

Participating in a competition or other arrangement under which a person may win a prize is not gambling for the purposes of this Act unless it is—

(a) gaming within the meaning of section 6,

(b) participating in a lottery within the meaning of section 14, or

(c) betting within the meaning of sections 9 to 11.

Commencement Information

I433 S. 339 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

340 Foreign betting

Sections 9 to 9B of the Betting and Gaming Duties Act 1981 (c. 63) (prohibitions, for protection of the revenue, in relation to foreign betting) shall cease to have effect.

Commencement Information

I434 S. 340 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

341 Offence committed by body

(1) Subsection (2) applies where an offence under this Act is committed by a body of persons corporate or unincorporate (other than a partnership) and it is proved that the offence was committed—

(a) with the consent or connivance of an officer of the body, or

(b) as a result of the negligence of an officer of the body.

(2) The officer, as well as the body, shall be guilty of the offence.

(3) In subsection (1) a reference to an officer of a body includes a reference to—
(a) a director, manager or secretary,
(b) a person purporting to act as a director, manager or secretary, and
(c) if the affairs of the body are arranged by its members, a member.

(4) Where an offence under this Act is committed by a partnership (other than a limited partnership) each partner shall be guilty of the offence.

(5) Where an offence under this Act is committed by a limited partnership, subsections (1) and (2) shall have effect, but as if a reference to an officer of the body were a reference to a partner.

(6) In relation to the prosecution of a body of persons unincorporate for an offence under this Act, the body shall be treated for all procedural purposes as if it were a body corporate.

(7) The Secretary of State may by regulations make provision for the modification of a provision of this section in its application to a body of persons formed under, or in so far as the body is recognised by, law having effect outside the United Kingdom.

Commencement Information

I435 S. 341 in force at 1.1.2007 for specified purposes by S.I. 2006/3272, art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

I436 S. 341 in force at 1.9.2007 in so far as not already in force by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

342 False information

(1) A person commits an offence if without reasonable excuse he gives to the Commission or a licensing authority for a purpose connected with a provision of this Act (whether or not in relation to an application under this Act) information which is—
(a) false, or
(b) misleading.

(2) A person guilty of an offence under this section shall be liable on summary conviction to—
(a) imprisonment for a term not exceeding 51 weeks,
(b) a fine not exceeding level 5 on the standard scale, or
(c) both.

(3) In the application of subsection (2) to Scotland the reference to 51 weeks shall have effect as a reference to six months.

(4) Where it appears to the Commission or a licensing authority that a decision under this Act was taken by them in reliance upon false or misleading information, they may do anything that they think expedient for the purpose of cancelling, terminating or varying an effect of the decision (but action under this subsection shall not make unlawful anything done before the action is taken).

Commencement Information

I437 S. 342 in force at 1.1.2007 for specified purposes by S.I. 2006/3272, art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

I438 S. 342 in force at 21.5.2007 in so far as not already in force by S.I. 2006/3272, art. 2(2), **Sch. 2** (with arts. 7-11, 7-12, Sch. 4) (as amended by S.I. 2007/1157, arts. 3(3), 4)

343 Value of prize

(1) Regulations prescribing a maximum value of prizes for a purpose of this Act may include provision for determining the value of a prize.

(2) Regulations by virtue of subsection (1) may, in particular—

(a) apply (with or without modification) or make provision similar to a provision of section 20 of the Betting and Gaming Duties Act 1981 (c. 63) (expenditure on bingo winnings);

(b) confer a discretion on the Secretary of State, on the Gambling Commission or on another person;

(c) provide for an appeal;

(d) confer jurisdiction on a court or tribunal.

(3) The imposition by or by virtue of this Act of a maximum on the value of a prize does not prevent an arrangement between a person who has won one or more prizes and a person who provides facilities for gambling whereby the prize or prizes are exchanged (whether for money or for one or more articles); provided that—

(a) the amount of money or the value of the articles for which the prize or prizes are exchanged does not exceed the maximum amount or value of the prize, or the aggregate maximum amount or value of the prizes, that the person could lawfully have won, and

(b) the nature of the substituted prize or prizes complies with any requirements of or by virtue of this Act as to the nature of the prize or prizes that the person could lawfully have won.

Commencement Information

I439 S. 343 in force at 21.5.2007 by S.I. 2006/3272, art. 2(2), **Sch. 2** (with arts. 7-11, 7-12, Sch. 4) (as amended by S.I. 2007/1157, arts. 3(3), 4)

344 Participation fees

(1) In this Act "participation fee" means an amount paid in respect of entitlement to participate in gambling; and for that purpose—

(a) it is immaterial—

(i) how a fee is described,

(ii) whether a fee is payable in money or in money's worth,

(iii) when and how a fee is payable,

(iv) to whom a fee is payable,

(b) a charge for admission to premises where gambling takes place shall be treated as a participation fee,

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Changes to legislation: *There are currently no known outstanding effects for the Gambling Act 2005. (See end of Document for details)*

(c) a membership subscription is not a participation fee (subject to subsections (2) and (3)), and

(d) a stake is not a participation fee.

(2) The Secretary of State may by regulations provide for a membership subscription to be treated as a participation fee in specified circumstances.

(3) For the purposes of section 279, a membership subscription is a participation fee.

(4) The Secretary of State may make regulations providing, in connection with the operation of a provision made by or by virtue of this Act in relation to a participation fee, for the apportionment of an amount which is payable partly in respect of entitlement to participate in gambling and partly in respect of another matter; and that provision may, in particular—

(a) provide for apportionment by a specified person;

(b) provide for apportionment in accordance with a specified formula or principle;

(c) refer to the concept of reasonableness.

Commencement Information

I440 S. 344 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

345 Forfeiture

(1) A court by or before which a person is convicted of an offence under this Act may make an order for the forfeiture of an article that appears to the court to relate to the offence.

(2) A forfeiture order—

(a) may include such provision about the treatment of the article forfeited as the court thinks appropriate, and

(b) subject to any provision made under paragraph (a), shall be treated as requiring any person in possession of the article to surrender it to a constable as soon as is reasonably practicable.

(3) Where—

(a) a court proposes to make a forfeiture order in respect of an article, and

(b) a person notifies the court that he has an interest in the article,

the court may not make the order without first giving the person an opportunity to make representations.

(4) The court which made a forfeiture order may order that the forfeited article be given up to a person who claims to have an interest in it.

(5) A person commits an offence if he fails to—

(a) comply with a forfeiture order, or

(b) co-operate with a step taken for the purpose of giving effect to a forfeiture order.

(6) A person guilty of an offence under subsection (5) shall be liable on summary conviction to—

(a) imprisonment for a term not exceeding 51 weeks,
(b) a fine not exceeding level 5 on the standard scale, or
(c) both.

(7) In the application of subsection (6) to Scotland the reference to 51 weeks shall have effect as a reference to six months.

Commencement Information

I441 S. 345 in force at 1.1.2007 for specified purposes by S.I. 2006/3272, art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

I442 S. 345 in force at 1.9.2007 in so far as not already in force by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

346 Prosecution by licensing authority

(1) A licensing authority may institute criminal proceedings in respect of an offence under any of the following provisions of this Act—
(a) section 37,
(b) section 185,
(c) section 186,
(d) section 229,
(e) section 242,
(f) section 258,
(g) section 259,
(h) section 260,
(i) section 261,
(j) section 262,
(k) section 326,
(l) section 342,
(m) paragraph 20 of Schedule 10,
(n) paragraph 10 of Schedule 13, and
(o) paragraph 20 of Schedule 14.

(2) This section is without prejudice to section 222 of the Local Government Act 1972 (c. 70) (power of local authorities to prosecute or defend legal proceedings).

(3) This section shall not apply to an authority in Scotland.

Commencement Information

I443 S. 346(1)(a)-(k)(m)-(o) in force at 1.9.2007 in so far as not already in force by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

I444 S. 346(1)(l)(2)(3) in force at 21.5.2007 by S.I. 2006/3272, art. 2(2), **Sch. 2** (with arts. 7-11, 7-12, Sch. 4) (as amended by S.I. 2007/1157, arts. 3(3), 4)

Status: *Point in time view as at 25/05/2018. This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Gambling Act 2005. (See end of Document for details)*

347 Prosecution: time limit

(1) A magistrates' court may try an information for an offence under this Act provided that the information was laid within the period of twelve months beginning with the date (or last date) on which the offence is alleged to have been committed.

(2) Section 127(1) of the Magistrates' Courts Act 1980 (c. 43) shall not apply to an offence under this Act.

Commencement Information

I445 S. 347 in force at 21.5.2007 by S.I. 2006/3272, art. 2(2), **Sch. 2** (with arts. 7-11, 7-12, Sch. 4) (as amended by S.I. 2007/1157, arts. 3(3), 4)

348 Excluded premises

(1) This Act shall have no effect in relation to anything done on, or in relation to any use of, premises of a kind specified for the purposes of this subsection by order of the Secretary of State.

(2) This Act shall have no effect in relation to anything done on, or in relation to any use of, premises certified for the purposes of this subsection, on grounds relating to national security, by the Secretary of State or the Attorney General.

Commencement Information

I446 S. 348 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

349 Three-year licensing policy

(1) A licensing authority shall before each successive period of three years—
- (a) prepare a statement of the principles that they propose to apply in exercising their functions under this Act during that period, and
- (b) publish the statement.

(2) A licensing authority shall—
- (a) review their statement under this section from time to time,
- (b) if they think it necessary in the light of a review, revise the statement, and
- (c) publish any revision before giving it effect.

(3) In preparing a statement or revision under this section a licensing authority shall consult—
- (a) either—
  - (i) in England and Wales, the chief officer of police for the authority's area, or
  - (ii) in Scotland, the chief constable of the police force maintained for the police area comprising that area,
- (b) one or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area, and

(c) one or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under this Act.

(4) The Secretary of State may make regulations about—

(a) the form of statements under this section;

(b) the procedure to be followed in relation to the preparation, review or revision of statements under this section;

(c) the publication of statements under this section.

(5) In relation to statements prepared under this section by licensing authorities in Scotland, subsection (4) shall have effect as if the reference to the Secretary of State were a reference to the Scottish Ministers.

(6) The Secretary of State shall by order appoint a day as the first day of the first period of three years for the purpose of this section.

(7) Where a licensing authority is specified in an order under section 175 they shall ensure that their statement under this section includes the principles that they propose to apply in making determinations under paragraph 5 of Schedule 9.

Modifications etc. (not altering text)

C74 S. 349(6): 31.1.2007 appointed for the purposes of s. 349 by S.I. 2006/637, art. 2

Commencement Information

I447 S. 349 in force at 31.3.2006 by S.I. 2006/631, **art. 2(1)(b)**

350 Exchange of information

(1) A person or body listed in Part 1 of Schedule 6 may provide information to any other person or body so listed for use in the exercise of a function under this Act.

(2) A person or body listed in Part 1 of Schedule 6 may provide information obtained in the course of the exercise of a function under this Act to Her Majesty's Commissioners of Customs and Excise for use in the exercise of any function.

(3) Provision of information in reliance on this section may be subject to conditions (whether as to use, storage, disposal or otherwise).

Commencement Information

I448 S. 350 in force at 1.1.2007 by S.I. 2006/3272, art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

351 Power to amend Schedule 6

(1) The Secretary of State may by order amend Schedule 6 so as to—

(a) add an entry to a list (in Part 1, 2 or 3);

(b) remove an entry from a list (in Part 1, 2 or 3);

(c) move an entry from one list to another;

(d) add, remove or vary a Note.

(2) In particular, a Note relating to an entry for a person or body situated outside the United Kingdom may provide that the entry has effect only in relation to the law of a Part of the United Kingdom.

(3) An entry added to a list in Schedule 6 may specify a person or body or a class or description of persons or bodies.

(4) The power to add, remove or vary a Note may be exercised generally or in relation to a specified person or body or class or description of persons or bodies.

Commencement Information

I449 S. 351 in force at 1.1.2007 by S.I. 2006/3272, art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

352 Data protection

[[F81](1)**]** Nothing in this Act authorises a disclosure which contravenes **[**[F82]the data protection legislation**]** .

[[F83](2) In this section, "the data protection legislation" has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act).**]**

Textual Amendments

F81 S. 352(1): s. 352 renumbered as s. 352(1) (25.5.2018) by Data Protection Act 2018 (c. 12), s. 212(1), **Sch. 19 para. 111(2)** (with ss. 117, 209, 210); S.I. 2018/625, reg. 2(1)(g)

F82 Words in s. 352(1) substituted (25.5.2018) by Data Protection Act 2018 (c. 12), s. 212(1), **Sch. 19 para. 111(3)** (with ss. 117, 209, 210); S.I. 2018/625, reg. 2(1)(g)

F83 S. 352(2) inserted (25.5.2018) by Data Protection Act 2018 (c. 12), s. 212(1), **Sch. 19 para. 111(4)** (with ss. 117, 209, 210); S.I. 2018/625, reg. 2(1)(g)

Commencement Information

I450 S. 352 in force at 1.10.2005 by S.I. 2005/2455, art. 2(1), **Sch.** (with art. 3)

[[F84]352A Wrongful disclosure

(1) Where the Commissioners for Her Majesty's Revenue and Customs provide information to a person under this Act, section 19 of the Commissioners for Revenue and Customs Act 2005 (wrongful disclosure) shall apply to the disclosure of the information by the person as it applies to the disclosure of information in contravention of a provision of that Act.

(2) But section 19 shall not apply to disclosure—

(a) in accordance with this Act,

(b) in accordance with another enactment, or

(c) in circumstances specified in section 18(2)(c), (d), (e) or (h) of that Act.

(3) In subsection (1)—

(a) information provided to a person shall be treated as being provided both to him and to any person on whose behalf he acts or by whom he is employed, and

(b) the reference to disclosure by the person to whom information was provided includes a reference to disclosure by any person acting on behalf of, or employed by, the person to whom the information was provided (or a person to whom it is treated as being provided by virtue of paragraph (a)).

(4) In the application of section 18(2)(c) and (d) of that Act by virtue of subsection (2)(c) above a reference to functions of the Revenue and Customs shall be taken as a reference to functions of the person making the disclosure.

(5) In the application of section 19 of that Act by virtue of subsection (1) above "revenue and customs information" means information provided by the Commissioners (but subject to the express exclusion in section 19(2)).

(6) Section 19 of that Act shall, in so far as it applies by virtue of this section, be treated for the purposes of section 28 of this Act as an offence under this Act.**]**

Textual Amendments

F84 S. 352A inserted (19.7.2006) by Finance Act 2006 (c. 25), **s. 177**

General

353 Interpretation

(1) In this Act, except where the context otherwise requires—

"adult" means an individual who is not a child or young person,

"adult gaming centre" has the meaning given by section 237,

"alcohol licence" has the meaning given by section 277,

"authorised local authority officer" has the meaning given by section 304,

"authorised person" has the meaning given by that section,

"betting" has the meaning given by sections 9 to 11, 37 and 150,

"betting intermediary" has the meaning given by section 13,

"bingo" means any version of that game, irrespective of by what name it is described,

"casino" has the meaning given by section 7,

"casino game" has the meaning given by that section,

"Category A gaming machine" (or B, C or D) means a gaming machine falling within Category A (or B, C or D) as prescribed under section 236,

"chief constables of police forces" has the same meaning in relation to England and Wales as in the Police Act 1996 (c. 16),

"child" has the meaning given by section 45,

"club gaming permit" has the meaning given by section 271,

"club machine permit" has the meaning given by section 273,

"commercial club" has the meaning given by section 267,

"the Commission" means the Gambling Commission,

[[F85]"director"—

(a) has the meaning given by section 250 of the Companies Act 2006, and

(b) includes a shadow director within the meaning of section 251 of that Act,**]**

Status: *Point in time view as at 25/05/2018. This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Gambling Act 2005. (See end of Document for details)*

"dog track" means premises which are designed, used or adapted for use for dog-racing,

"draw", in relation to a lottery, has the meaning given by section 255,

"EEA State" means a State which is a contracting party to the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 (as it has effect from time to time),

"enactment" includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament,

"enforcement officer" means a person designated or appointed as an enforcement officer under section 303,

"equal chance gaming" has the meaning given by section 8,

"exempt lottery" has the meaning given by section 258,

"external lottery manager" has the meaning given by section 257,

"fair" has the meaning given by section 286,

"family entertainment centre" has the meaning given by section 238,

"family entertainment centre gaming machine permit" has the meaning given by section 247,

"football pools" means an arrangement whereby—

(a) people compete for prizes by forecasting the results of association football games, and

(b) each entry to the competition must forecast the results of at least four games,

"gambling" has the meaning given by section 3,

"gambling software" has the meaning given by section 41,

"game of chance" has the meaning given by section 6,

"gaming" has the meaning given by that section,

"gaming machine" has the meaning given by section 235,

"horse-race course" means premises which are designed, used or adapted for use for horse-racing,

"horse-race pool betting" has the meaning given by section 12,

"large casino" has the meaning given by regulations under section 7(5),

"licensed family entertainment centre" has the meaning given by section 238,

"licensed premises gaming machine permit" has the meaning given by section 283,

"the licensing objectives" has the meaning given by section 1,

"licensing authority" has the meaning given by section 2,

"lottery" has the meaning given by section 14 (and section 256),

"lottery manager's operating licence" has the meaning given by section 98,

"lottery ticket" has the meaning given by section 253,

"machine" has the meaning given by section 235(3)(a),

"members' club" has the meaning given by section 266,

"miners' welfare institute" has the meaning given by section 268,

"the National Lottery" has the meaning given by section 1 of the National Lottery etc. Act 1993 (c. 39)),

"non-commercial betting" has the meaning given by section 302,

"non-commercial gaming" has the meaning given by section 297,

"non-commercial society" has the meaning given by section 19,

"occasional use notice" means a notice given under section 39,

"operating licence" means a licence issued under Part 5,

"on-premises alcohol licence" has the meaning given by section 277,

"participant", in relation to a game of chance, includes a person who discharges an administrative or other function in relation to the game,

"participation fee" has the meaning given by section 344,

"passenger vessel" means a vessel which is carrying or expected to carry at least one passenger,

"personal licence" means a licence issued under Part 6,

"pool betting" has the meaning given by section 12,

"premises" includes any place and, in particular—

(a) a vessel, and

(b) a vehicle,

"premises licence" means a licence issued under Part 8,

"private betting" has the meaning given by section 295 and Part 2 of Schedule 15,

"private gaming" has the meaning given by section 295 and Part 1 of Schedule 15,

"private gain" is to be construed in accordance with section 19(3),

"prize" in relation to gaming (except in the context of a gaming machine) has the meaning given by section 6,

"prize" in relation to a gaming machine has the meaning given by section 239,

"prize" in relation to a lottery has the meaning given by section 14,

"prize gaming" has the meaning given by section 288,

"prize gaming permit" has the meaning given by section 289,

"proceeds", in relation to a lottery, has the meaning given by section 254,

"profits", in relation to a lottery, has the meaning given by that section,

"profits", in relation to non-commercial prize gaming, has the meaning given by section 299,

"racecourse" means premises on any part of which a race takes place or is intended to take place,

"real", in relation to a game, event or process means non-virtual,

"relevant offence" has the meaning given by section 126 and Schedule 7,

"remote communication" has the meaning given by section 4,

"remote gambling" has the meaning given by that section,

"remote gambling equipment" has the meaning given by section 36,

"remote operating licence" has the meaning given by section 67,

"rollover", in relation to a lottery, has the meaning given by section 256,

"small casino" has the meaning given by regulations under section 7(5),

"society" includes a branch or section of a society,

"stake" means an amount paid or risked in connection with gambling and which either—

(a) is used in calculating the amount of the winnings or the value of the prize that the person making the stake receives if successful, or

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(b) is used in calculating the total amount of winnings or value of prizes in respect of the gambling in which the person making the stake participates,

"supply" includes—

(a) sale,

(b) lease, and

(c) placing on premises with permission or in accordance with a contract or other arrangement,

"temporary use notice" has the meaning given by section 215,

"track" means a horse-race course, dog track or other premises on any part of which a race or other sporting event takes place or is intended to take place,

"travelling fair" has the meaning given by section 286,

"vehicle" includes—

(a) a train,

(b) an aircraft,

(c) a seaplane, and

(d) an amphibious vehicle (other than a hovercraft within the meaning of the Hovercraft Act 1968 (c. 59)),

"vessel" includes—

(a) anything, other than a seaplane or an amphibious vehicle, designed or adapted for navigation or other use in, on or over water,

(b) a hovercraft (within the meaning of the Hovercraft Act 1968), and,

(c) anything, or any part of any place, situated in or on water,

"virtual" has the meaning given by subsection (3) below,

"winnings", in relation to a bet, means anything won, whether in money or in money's worth, and

"young person" has the meaning given by section 45.

(2) In this Act, except where the context otherwise requires—

(a) a reference to accepting a bet includes a reference to negotiating a bet,

(b) a reference to advertising is to be construed in accordance with section 327,

(c) a reference to participating in a lottery is to be construed in accordance with section 14,

(d) a reference to installing computer software includes a reference to downloading computer software,

(e) a reference to paying winnings in relation to a bet includes a reference to providing a prize in money's worth,

(f) a reference to postal services does not include a reference to facsimile transmission,

(g) a reference to premises includes a reference to part of premises,

(h) a reference to promoting a lottery is to be construed in accordance with section 252,

(i) a reference to providing facilities for gambling is to be construed in accordance with section 5,

(j) a reference to publication includes a reference to display, and

(k) a reference to the sale, supply or purchase of a lottery ticket is to be construed in accordance with section 253.

(3) For the purposes of this Act a reference to a virtual game, race or other event or process is a reference to—

(a) images generated by computer so as to resemble all or part of a game, race or other event or process of a kind that is played by or involves actual people, animals or things,

(b) images generated by computer so as to represent an imaginary game, race or other event or process, or

(c) any game, race or other event or process the result of which is determined by computer.

(4) A requirement under this Act to give a notice (or to notify) is a requirement to give notice in writing; and for that purpose—

(a) a message sent by facsimile transmission or electronic mail shall be treated as a notice given in writing, and

(b) a notice sent to a licensee at the address specified for that purpose in the licence shall, unless the contrary is proved, be treated as reaching him within a period within which it could reasonably be expected to reach him in the ordinary course of events.

(5) A reference in this Act to an act which is authorised by a licence or other document does not include a reference to an act which would be authorised by the licence or document but for failure to comply with a term or condition.

Textual Amendments

F85 Words in s. 353(1) substituted (1.10.2007) by Companies Act 2006 (Commencement No.3, Consequential Amendments, Transitional Provisions and Savings) Order 2007 (S.I. 2007/2194), art. 1(3)(a), **Sch. 4 para. 109** (with art. 12)

Commencement Information

I451 S. 353 in force at 1.1.2007 by S.I. 2006/3272, art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

354 Crown application

(1) This Act binds the Crown.

(2) But this Act shall have no effect in relation to anything done on, or in relation to any use of, premises occupied (temporarily or permanently) by **[**[F86]any of Her Majesty's forces (within the meaning of the Armed Forces Act 2006)**]**

(3) **[**[F87]A reference to a responsible authority (being an authority mentioned in section 157(f) in a provision of this Act which, by virtue of subsection (1), applies to premises owned or occupied by the Crown shall have effect as if the reference were a reference to the enforcing authority (as defined in section 61(9) of the Fire Scotland Act 2005 (asp 5)).**]**

Textual Amendments

F86 Words in s. 354(2) substituted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by Armed Forces Act 2006 (c. 52), s. 383(2), **Sch. 16 para. 245**; S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4

F87 S. 354(3) substituted (S.) (1.10.2006) by Fire (Scotland) Act 2005 (Consequential Modifications and Savings) Order 2006 (S.S.I. 2006/475), art. 1, **sch. 1 para. 16(4)**

Commencement Information

I452 S. 354 in force at 1.10.2005 by S.I. 2005/2455, art. 2(1), **Sch.** (with art. 3)

355 Regulations, orders and rules

(1) Regulations or rules under this Act, or an order of the Secretary of State **[**[F88], the Welsh Ministers**][**[F89]or the Scottish Ministers**]** under this Act—

(a) may make provision which applies generally or only for specified purposes or in specified cases or circumstances,

(b) may make different provision for different purposes, cases or circumstances, and

(c) may include incidental, consequential or transitional provision.

(2) A provision of this Act which permits regulations, rules or an order to make provision of a specified kind is without prejudice to the generality of subsection (1).

(3) Regulations or rules under this Act, or an order of the Secretary of State **[**[F90]or the Welsh Ministers**]** under this Act, shall be made by statutory instrument.

(4) Regulations under any of the following provisions shall not be made by the Secretary of State unless a draft has been laid before and approved by resolution of each House of Parliament—

(a) section 4,

(b) section 6,

(c) section 7,

(d) section 14,

(e) section 78,

(f) section 123,

(g) section 167,

(h) section 168,

(i) section 236, and

(j) section 328.

(5) Regulations or rules made by a Minister of the Crown under any other provision of this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(6) An order of the Secretary of State under this Act shall not be made unless a draft has been laid before and approved by resolution of each House of Parliament (subject to subsections (7) and (8)).

(7) Subsection (6) shall not apply to an order under section 349(6), to an order under section 351 other than an order adding an entry to the list in Part 2 or 3 of Schedule 6 or to an order under Part 2 of Schedule 7 or Part 2 of Schedule 18, which shall instead be subject to annulment in pursuance of a resolution of either House of Parliament.

(8) Subsection (6) shall not apply to an order under section 358; but—

(a) an order under section 358(1) which includes provision made by virtue of section 358(4) or by virtue of Part 1 of Schedule 18 shall be subject to annulment in pursuance of a resolution of either House of Parliament, and

(b) an order under section 358(5) or (6) shall not be made unless a draft has been laid before and approved by resolution of each House of Parliament.

[[F91](8A) An order of the Welsh Ministers under section 172 shall not be made unless a draft has been laid before and approved by resolution of the National Assembly for Wales.**]**

[[F92](9) Subsection (3) does not apply to regulations made by the Scottish Ministers (see section 27 of the Interpretation and Legislative Reform (Scotland) Act 2010: functions exercisable by Scottish statutory instrument).

(10) Regulations made by the Scottish Ministers under a provision specified in subsection (4), or under section 285, and an order made by the Scottish Ministers under section 172, shall be subject to the affirmative procedure.

(11) Any other regulations made by the Scottish Ministers under a provision of this Act shall be subject to the negative procedure.**]**

Textual Amendments

F88 Words in s. 355(1) inserted (1.4.2018) by Wales Act 2017 (c. 4), **ss. 58(2)(a)**, 71(4) (with s. 58(3), Sch. 7 paras. 1, 6); S.I. 2017/1179, reg. 3(l)

F89 Words in s. 355(1) inserted (23.5.2016) by Scotland Act 2016 (c. 11), **ss. 52(5)(a)**, 72(7) (with s. 52(6))

F90 Words in s. 355(3) inserted (1.4.2018) by Wales Act 2017 (c. 4), **ss. 58(2)(b)**, 71(4) (with s. 58(3), Sch. 7 paras. 1, 6); S.I. 2017/1179, reg. 3(l)

F91 S. 355(8A) inserted (1.4.2018) by Wales Act 2017 (c. 4), **ss. 58(2)(c)**, 71(4) (with s. 58(3), Sch. 7 paras. 1, 6); S.I. 2017/1179, reg. 3(l)

F92 S. 355(9)-(11) substituted for s. 355(9)(10) (23.5.2016) by Scotland Act 2016 (c. 11), **ss. 52(5)(b)**, 72(7) (with s. 52(6))

Commencement Information

I453 S. 355 in force at 28.8.2005 by S.I. 2005/2425, **art. 2**

356 Amendments and repeals

(1) Schedule 16 (minor and consequential amendments) shall have effect.

(2) An amendment in that Schedule shall have the same extent as the enactment amended (or as the relevant portion of the enactment amended).

(3) The following shall cease to have effect—

(a) the Gaming Act 1710 (c. 19),

(b) the Gaming Act 1738 (c. 28),

(c) the Gaming Act 1835 (c. 41),

(d) the Gaming Act 1845 (c. 109),

(e) the Gaming Act 1892 (c. 9),

(f) the Betting, Gaming and Lotteries Act 1963 (c. 2),

(g) the Gaming Act 1968 (c. 65),

(h) the Lotteries Act 1975 (c. 58), and

(i) the Lotteries and Amusements Act 1976 (c. 32).

(4) The enactments listed in Schedule 17 are hereby repealed to the extent specified.

(5) A repeal in that Schedule shall have the same extent as the provision repealed (subject to the Note to that Schedule).

Commencement Information

I454 S. 356(1)(2) in force at 1.10.2005 for specified purposes by S.I. 2005/2455, art. 2(1), **Sch.** (with art. 3)

I455 S. 356(1)(2) in force at 24.11.2005 for specified purposes by S.I. 2005/2455, **art. 2(2)** (with art. 3)

I456 S. 356(1)(2) in force at 25.11.2005 for specified purposes by S.I. 2005/2455, **art. 2(3)** (with art. 3)

I457 S. 356(1)(2) in force at 1.1.2007 for specified purposes by S.I. 2006/3272, art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

I458 S. 356(1)(2)(4)(5) in force at 1.9.2007 in so far as not already in force by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

I459 S. 356(3)(a)-(e)(h) in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

I460 S. 356(3)(f) in force at 1.9.2007 by S.I. 2006/3272, **art. 3(1)** (with art. 3(2)-(8), 4, 7-11, 7-12, Sch. 4)

I461 S. 356(3)(g) in force at 1.9.2007 by S.I. 2006/3272, **art. 4(1)** (with art. 4(2)-(5), 7-11, 7-12, Sch. 4)

I462 S. 356(3)(i) in force at 1.9.2007 by S.I. 2006/3272, **art. 5(1)** (with art. 5(2)-(6), 7-11, 7-12, Sch. 4)

I463 S. 356(4)(5) in force at 1.10.2005 for specified purposes by S.I. 2005/2455, art. 2(1), **Sch.** (with art. 3)

I464 S. 356(4)(5) in force at 1.1.2007 for specified purposes by S.I. 2006/3272, art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

I465 S. 356(4)(5) in force at 1.9.2007 for specified purposes by S.I. 2006/3272, **art. 3(1)** (with art. 3(2)-(8), 4, 7-11, 7-12, Sch. 4)

I466 S. 356(4)(5) in force at 1.9.2007 for specified purposes by S.I. 2006/3272, **art. 5(1)** (with art. 5(2)-(6), 7-11, 7-12, Sch. 4)

I467 S. 356(4)(5) in force at 1.9.2007 for specified purposes by S.I. 2006/3272, **art. 4(1)** (with art. 4(2)-(5), 7-11, 7-12, Sch. 4)

357 Money

(1) Expenditure of a Minister of the Crown in connection with this Act shall be paid out of money provided by Parliament.

(2) A sum received by a Minister of the Crown in connection with this Act shall be paid into the Consolidated Fund.

Commencement Information

I468 S. 357 in force at 1.10.2005 by S.I. 2005/2455, art. 2(1), **Sch.** (with art. 3)

358 Commencement

(1) The preceding provisions of this Act shall come into force in accordance with provision made by the Secretary of State by order.

(2) An order under subsection (1) may (without prejudice to the generality of section 355(1))—

(a) bring only specified provisions into force;

(b) bring different provisions into force at different times;

(c) bring a provision into force for a specified purpose only;

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(d) bring a provision into force at different times for different purposes;

(e) in particular, bring Part 2 into force only for specified preliminary purposes relating to the establishment of the Commission (which may include the assumption of functions of the Gaming Board for Great Britain pending the commencement of repeals made by this Act);

(f) in particular, bring a provision of this Act into force for the purpose of enabling an advance application for a licence or permit to be made, considered and determined;

(g) in particular, bring an offence or other provision of this Act into force only in relation to gambling of a specified class or in specified circumstances;

(h) include transitional provision modifying the application of a provision of this Act pending the commencement of, or pending the doing of anything under, a provision of another enactment.

(3) Schedule 18 (transitional) shall have effect.

(4) Without prejudice to the generality of section 355(1)(c) or of Schedule 18, an order under this section may—

(a) make savings (with or without modification) or transitional provision in connection with Part 1 or 2 of the Horserace Betting and Olympic Lottery Act 2004 (c. 25) (sale of the Horserace Totalisator Board ("the Tote") and abolition of the horserace betting levy system);

(b) modify a provision of this Act in its application in relation to a matter addressed by Part 1 or 2 of that Act or so as to reflect a provision of Part 1 or 2 of that Act;

(c) modify a provision of Part 1 or 2 of that Act (including a provision which amends another enactment) so as to reflect a provision of this Act.

(5) If the Secretary of State brings into force a repeal effected by this Act at a time when the appointed day for the purposes of Part 1 of that Act has not been appointed or has not arrived, he may by order—

(a) save, with or without modification, a provision repealed by this Act in so far as it relates to the Tote;

(b) make provision in connection with the Tote of a kind similar to provision made by a provision repealed by this Act;

(c) modify a provision of this Act for a purpose connected with the Tote;

(d) modify a provision of Part 1 of that Act (including a provision which amends another enactment) so as to reflect a provision of this Act.

(6) If the Secretary of State wholly or partly brings into force the repeal by this Act of the Betting, Gaming and Lotteries Act 1963 (c. 2) at a time when the provisions listed in section 15(1)(a) to (c) of the Horserace Betting and Olympic Lottery Act 2004 (horserace betting levy system) have not been entirely repealed by order under that section, he may by order—

(a) save any of those provisions, with or without modification;

(b) make provision of a kind similar to any of those provisions;

(c) modify a provision of this Act for a purpose connected with a matter addressed by any of those provisions or by Part 2 of that Act;

(d) modify a provision of Part 2 of that Act (including a provision which amends another enactment) so as to reflect a provision of this Act.

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Changes to legislation: *There are currently no known outstanding effects for the Gambling Act 2005. (See end of Document for details)*

359 Vessels: territorial limitations

(1) A person does not commit an offence under Part 3, 4, 10 or 11 of this Act if—
- (a) the conduct which would otherwise constitute the offence takes place on board a vessel (within the meaning of section 353(1)), and
- (b) the vessel is on a journey which has taken it or is intended to take it into international waters.

(2) Subject to subsection (1) a provision of this Act which applies in relation to a thing done in Great Britain applies to that thing if done on or in the territorial sea adjacent to Great Britain.

(3) In this section—

"international waters" means waters outside the territorial sea adjacent to Great Britain, and

"the territorial sea" has the meaning given by section 1 of the Territorial Sea Act 1987 (c. 49).

360 Aircraft: territorial limitations

(1) A person does not commit an offence under Part 3, 4, 10 or 11 of this Act if the conduct which would otherwise constitute the offence takes place—
- (a) on board an aircraft, and
- (b) at a time when the aircraft is in international airspace.

(2) In this section "international airspace" means airspace other than airspace above Great Britain or above the territorial sea adjacent to Great Britain (within the meaning given by section 1 of the Territorial Sea Act 1987).

361 Extent

(1) The following provisions of this Act extend to England and Wales, Scotland and Northern Ireland—
- (a) section 43,
- (b) [F93]...and
- (c) section 340 (and the related entry in Schedule 17).

(2) The other provisions of this Act shall extend only to—
- (a) England and Wales, and
- (b) Scotland.

(3) This section is subject to section 356.

Textual Amendments

F93 S. 361(1)(b) omitted (1.11.2014) by virtue of Gambling (Licensing and Advertising) Act 2014 (c. 17), **ss. 3(2)(a)(iii)**, 6(5); S.I. 2014/2444, art. 2(b) (as amended (29.9.2014) by S.I. 2014/2646, art. 2)

362 Short title

This Act may be cited as the Gambling Act 2005.

Status:
Point in time view as at 25/05/2018. This version of this Act contains provisions that are prospective.

Changes to legislation:
There are currently no known outstanding effects for the Gambling Act 2005.