

GAMBLING ACT 2005

EXPLANATORY NOTES

TERRITORIAL EXTENT

Territorial limits – vessels and aircraft

Schedule 13: Licensed premises gaming machine permits

Part 13: Prize Gaming

725. **Part 13** contains authorisations for prize gaming. This is a type of gaming where the organiser puts up the prizes in advance, as distinct from gaming where the stakes of the participants make up the winnings. Prize gaming is intended to permit low level gaming, for small participation fees, and modest prizes. Bingo played at seaside amusement arcades is a typical venue for such gaming.
726. The definition of “gaming” in Part 1 covers any sort of gaming for prizes or winnings. Therefore, a provision in the Act which authorises gaming generally, also authorises prize gaming. For example, a bingo operating licence authorises the playing of games of bingo for prizes or winnings. However, in this Part the permissions relate exclusively to prize gaming.
727. The premises which can receive authorisations under this Part are: adult gaming centres, licensed or unlicensed family entertainment centres, and travelling fairs. There is also a permit for authorising other premises to provide prize gaming, under Schedule 14, and particular allowances for bingo operators.
728. This Part is derived from provisions in section 16 (provisions of amusements with prizes at certain commercial entertainments) of the Lotteries and Amusements Act 1976 (which is repealed by this Act) and section 21 (special provisions as to gaming for prizes) of the Gaming Act 1968 (which is repealed by this Act). This Part does not replicate every aspect of those sections. In particular, lotteries may not be promoted under this Part.
729. Where machines are used for playing prize games, these may or may not count as gaming machines. This will depend on whether the machine complies with the exemptions in section 235(2)(e), (f) or (g). If it does, it will not be subject to the Part 10 gaming machine regime, but will be subject to regulation by this Part, together with relevant licence conditions and codes of practice. If it does not, it will be a gaming machine, and that regime will apply.

Section 288: Meaning of “prize gaming”

730. To be prize gaming, the prize for which the gaming is played must comply with the following requirements:
- the nature or size of the prize must not be determined by reference to the number of people playing the game; and

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- the nature or size of the prize must not be determined by reference to the amount paid for or raised by the gaming.
731. This gaming is therefore different to gaming where the stakes paid by the players are used to calculate the winnings available. The effect of the definition is that in prize gaming the prizes available will be determined by the operator of the gaming before play commences, and the payments he receives from the players will not be put directly to any prize on offer. This does not stop operators from estimating what money will be raised from gaming, or predicting the numbers who will take part. Its purpose is to stop the actual amounts raised in a particular game being used to determine the prize in that particular game. Prize gaming can cover both money and non-money prizes.
732. [Section 288](#) does not prevent prizes being won in a way that depends on the progress or outcome of the game. This means that if different prizes can be claimed dependent on how quickly a win takes place (for example, calling “house” in a game of bingo within a certain number of calls), this is permitted.

Section 289: Prize gaming permits and Schedule 14

733. One way of authorising prize gaming is to obtain a prize gaming permit from a licensing authority. This section and Schedule 14 make provision for the grant and maintenance of prize gaming permits. Anyone who occupies, or proposes to occupy, premises may apply for a permit, but a permit is not available in respect of premises which are subject to a premises licence under Part 8, or a club gaming permit under Part 12. This is because those licences and permits already give such premises the relevant rights to offer prize gaming, where appropriate. A permit cannot be granted for a vessel or a vehicle.
734. The reference to “occupy” in this context means a legal right to be in occupation of the premises. This can either be by having a freehold or leasehold interest in the property, or holding it on a tenancy agreement. A person who is seeking a prize gaming permit must have a right to occupy the premises where the prize gaming takes place. For example, if “A” has a prize gaming permit and owns the freehold of the premises where the prize gaming is taking place, and leases the property to “B”, then (subject to the terms of the lease), A will no longer have the right to be in occupation of the premises. On this basis, the permit shall lapse in accordance with [paragraph 14](#) of Schedule 14. If “B” wishes to offer prize gaming at the premises then he will need to make an application for a new permit under paragraph 3. In these circumstances, “B’s” permit will not take effect until the lease has formally been executed in his favour (see [paragraph 14\(2\)](#)).
735. By virtue of the provisions of Part 4 of the Act, children and young people may only participate in equal chance prize gaming, and not any other form of prize gaming made available pursuant to a permit. There are a number of conditions applicable to prize gaming permits, which are common to all prize gaming authorised by this Part, contained in section 293.
736. [Schedule 14](#) covers the process and procedure of the grant and maintenance of a prize gaming permit. The requirements are similar, but not identical, to those applicable to family entertainment centre gaming machine permits under Part 10 of and Schedule 12 to the Act. The licensing authority must maintain a register of prize gaming permits.
737. Under [paragraph 8](#) of [Schedule 14](#) a licensing authority can prepare a statement of principles which they propose to use for determining applications for permits, and, in particular, the suitability of an applicant. In exercising their functions in relation to prize gaming permits, a licensing authority may have regard to the licensing objectives set out in Part 1 of the Act, but must have regard to any relevant guidance issued by the Commission ([paragraph 8\(3\)](#)). Subject to this, an authority has discretion whether to grant or refuse a permit. [Paragraph 10](#) requires the authority to consult the police prior to issuing a permit.

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738. Under *paragraphs 13 to 17*, a permit will expire after ten years (when it can be renewed) unless it lapses (in which case certain transitional provisions are made), is surrendered or is forfeited under the provisions of these paragraphs. Renewal applications are considered on the same grounds as an original application (this is different to the renewal of a family entertainment centre gaming machine permit under *Schedule 12*, where the grounds for refusing renewal are more narrowly defined). Forfeiture can be ordered by any court sentencing a permit holder for a relevant offence, as defined in section 126.
739. *Paragraph 22* provides a full appeals procedure for anyone wishing to appeal against the decisions of a licensing authority under this Schedule.

Sections 290 & 292: Prize gaming in gaming and entertainment centres and fairs

740. As a separate authorisation to the prize gaming permit, these sections grant rights to conduct prize gaming to licensed adult gaming centres (AGCs), licensed and unlicensed family entertainment premises (FECs), and to travelling fairs. Licensed AGCs and FECs may offer any type of prize gaming, but an unlicensed FEC (i.e. one with a permit under Schedule 10 to the Act), and a travelling fair, may only offer equal chance prize gaming.
741. The prize gaming which can be offered under these sections is subject to conditions under section 293. In addition, under Part 4 of the Act, children and young people can only participate in equal chance gaming at a licensed or unlicensed FEC or travelling fair. Therefore, if a licensed FEC chooses to offer unequal chance prize gaming, children and young people may not participate in it (people under 18 are not allowed into AGCs at all).
742. In addition, for prize gaming to be offered lawfully at a fair, the prize gaming, together with any other facilities for gambling offered (e.g. gaming machines), must be ancillary to the other amusements and activities offered at the fair.

Section 291: Bingo halls

743. Under a bingo operating licence, any form of bingo may be offered. This means prize bingo and cash bingo, as developed under the Gaming Act 1968, are both permitted by the bingo operating licence. However, section 21 of the 1968 Act conferred certain entitlements to offer gaming for prizes upon premises licensed under Part II of that Act, which are not covered entirely by the terms of the bingo operating licence.
744. *Section 291* permits holders of a bingo premises licence (and necessarily a bingo operating licence) to offer prize gaming, provided the gaming complies with any conditions attached to the relevant bingo operating licence. Such conditions may be added as general conditions by the Commission or imposed by the Secretary of State (see the notes on Part 5 for an explanation of these). In particular, the conditions may restrict the types of games offered under this authorisation. Conditions imposed by the Secretary of State may also relate to any of the matters set out in section 91(1) e.g. impose limits on the size of payments made by players to participate in the gaming, or on the size of prizes.
745. Under the terms of Part 1 and Part 5 of the Act, casinos are granted permission to offer any form of gaming (subject to conditions which may be imposed on a casino operating licence), and no longer need any express permission similar to that offered by section 21 of the 1968 Act. Therefore, Part 13 does not cover casinos.

Section 293: Conditions for prize gaming

746. There are four conditions that prize gaming permit holders, licensed AGCs, licensed FECs, FECs with permits and fairs must comply with in order for them to offer prize gaming lawfully under this Part:

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- The amounts charged to players to take part in the prize gaming must not exceed any amounts prescribed by the Secretary of State, and these may differ according to different matters (and see section 344 for the definition of participation fee);
- The prizes offered in the prize gaming must not exceed any value set by the Secretary of State (and this may cover money and/or non-money prizes). The limits may be set by reference to each prize that is offered in a game or all the prizes that are offered in a game;
- The prize gaming must take place on the relevant premises, in the course of one day only, and the results must be announced on the premises, and as soon as possible after the game ends; and
- Participation in a game must not entitle the player to participate in any other gambling. In other words, the prize gaming must be free-standing and self-contained, and not linked with other gambling.

Section 294: Power to restrict exemptions

747. This section gives the Secretary of State the power to remove some, or all, of the prize gaming entitlements conferred in this Part. The purpose of this section is to provide flexibility in the event that, for example, an additional class of operating licence is added to Part 5 of the Act which covers matters dealt with under the prize gaming sections. If this were to happen, it would be necessary to remove the entitlements from Part 13, in order for new operating licence requirements to apply. This power is included to deal with such future contingencies.