

GAMBLING ACT 2005

EXPLANATORY NOTES

TERRITORIAL EXTENT

Territorial limits – vessels and aircraft

Schedule 7: Relevant offences

Part 6 – Personal Licences

356. This Part of the Act deals with personal licences, which certain individuals working in the gambling industry will be required to hold. The Commission will grant these licences, which are of indefinite duration. This regime is also relevant to operating licence holders, who will be required to use personnel who hold a personal licence. Unless the operator is a small-scale operator, the Commission is obliged to use its condition making powers to ensure that, for each operating licence, at least one person occupies a specified management office and holds a personal licence authorising them to perform the functions of the office.
357. **Part 6** operates on the basis that many of the provisions contained in Part 5 on operating licences are also relevant to personal licences. So, in relation to many of the procedural requirements which the Commission will need to undertake for the personal licensing regime, the sections in Part 5 are deemed to apply to personal licences under Part 6. Powers are taken for the Secretary of State to make necessary modifications to the Part 5 procedures. This approach has been adopted to avoid repetition of large amounts of material in both Parts 5 and 6. Where particular matters need a self-standing provision for personal licences, Part 6 provides accordingly.

Section 127: Nature of personal licence

358. A personal licence will authorise the holder to perform a specified management office or specified operational function, in connection with either the provision of facilities for gambling or a person who provides such facilities. The definitions of “management office” and “operational function” are set out in section 80.
359. By attaching conditions to operating licences under Part 5, the Commission will identify posts which must be held by a personal licence holder. These fall into the two groups of management offices and operational functions. Therefore, personal licences may need to be held by those directly providing the facilities for gambling, such as a croupier, or those who perform certain functions in a gambling operation but do not actually themselves provide the facilities, such as a compliance officer. Not everyone who works in the gambling industry will need a personal licence. It will be the task of the Commission, in granting operating licences, to determine which posts within any organisation need to be held by someone with a personal licence, and operators must employ people accordingly.

Section 128: Application of provisions of Part 5

360. The personal licensing system under Part 6 is not intended to be a free-standing regime in its own right, but instead sits alongside the regime for operating licences in Part 5. This section specifies that Part 6 is to be read as incorporating the features of the operating licence system, except where:
- it is modified by Part 6, or as necessary; or
 - it is amended by regulations made by the Secretary of State.
361. As a result, the basic procedures for application for, determination of, and review of licences will be the same for both operating and personal licences, except where this Part (or the natural context) demands otherwise. Personal licences may be subject to general or specific conditions imposed by the Commission, or conditions imposed by the Secretary of State in regulations.
362. Personal licences are different to the ten types of operating licence specified in section 65(2).

Section 129: Exemption for small scale operators

363. **Part 5** requires that anyone holding an operating licence must have at least one person in a management office holding a personal licence. However, this section exempts small-scale operators from this requirement. This is because, in small operations, the operating licence will achieve the same purpose as a personal licence. For example, an independent on-course betting operator, employing only one or two people is likely to be the sort of operator who will be excused from holding a personal licence under this section.
364. The Secretary of State will define the meaning of “small scale operator” in particular by reference to the size and value of the business, and the number of employees (*subsection (2)*). *Subsection (4)* requires an operator, who benefits from this exemption, to produce his operating licence, as if it were a personal licence. Section 134 sets out the requirements for producing a personal licence.

Section 130: Application

365. The application procedures set by the Commission for personal licences will mirror those set out in Part 5, with suitable modifications. In particular, the licensing objectives, and the applicant’s suitability (including integrity and competence) will be taken into account by the Commission in deciding whether to grant a licence. This section makes it clear that the Commission can require the applicant’s employer or intended employer to take part in the application process for a personal licence (*subsections (1) and (2)*). However, a person does not have to be employed in order to apply for a personal licence (*subsection (4)*). A person may acquire a licence prior to seeking employment in order, for example, to improve his chances of finding work.

Sections 131 & 135: Duration and Review

366. Subject to surrender, lapse, forfeiture or revocation, all personal licences will be of unlimited duration. The Commission does not have the power to introduce limited durations for personal licences, as it can for operating licences under Part 5.
367. The review procedures for individual licences contained in section 116 will apply to personal licences, with any appropriate modification. However, the power to review classes of licence is not available for personal licences.

Section 132: Fees

368. Personal licences will be subject to an application fee. Under this section the Secretary of State also has power to specify periodic fees to be paid by a personal licence holder to the Commission to maintain his licence. Unlike operating licence maintenance fees, these will not necessarily be annual fees. Instead, the Secretary of State may set the amount and the period for which the fees must be paid. Non-payment can lead to revocation of a personal licence. The maintenance fees will be used by the Commission to cover the costs of regulation.

Section 133: Multiple licences

369. An individual will not be allowed to hold more than one personal licence, but a personal licence can cover a number of management or operational functions. This allows one individual to conduct a number of functions relying upon one licence.

Section 134: Production of licence

370. This section gives police constables and Commission enforcement officers the power to require a personal licensee to produce his licence within a specified period. If the individual is carrying on a licensed activity, or is on licensed premises, then the licence must be produced immediately. This means that a personal licence holder will be required to keep the licence on his person when at work. This is in contrast to the operating licence holder, who, unless they are a “small scale operator” can only be required to produce the operating licence within a specified period. Failing to comply with these requirements will be an offence, attracting a fine not exceeding level 2 upon conviction.

Section 136: Disqualification

371. In addition to being able to order forfeiture of a personal licence as part of the sentence for a relevant offence, this section allows a court to order that the person be disqualified from holding a personal licence for a period of up to ten years. This can be instead of, or in addition to, an order for forfeiture. Relevant offences are defined under section 126 of the Act.

Sections 137 & 138: Notification requirements

372. Where the Commission suspends or revokes a personal licence, or a court orders forfeiture or disqualification, the operating licence holder is entitled to be notified by the Commission of what has happened to the personal licence. Equally, where an operating licence holder is aware that a personal licensee has been convicted of a relevant offence, he must inform the Commission of the fact.

Section 139: Breach of personal licence condition

373. This section makes it an offence for the holder of a personal licence to breach a condition of his licence, when acting in the course of (or in connection with) an activity authorised by an operating licence, which itself requires the personal licence to be held. The holder of the operating licence may also commit an offence, on the same set of facts, under Part 5, but this section provides that the individual personal licence holder can be proceeded against for the offence, irrespective of what steps are taken against the operator. The penalty for the personal licence holder is a maximum period of imprisonment in England or Wales of 51 weeks, and in Scotland of 6 months, and/or a fine not exceeding level 5.