



# Gambling Act 2005

## 2005 CHAPTER 19

### 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.

##### **Annotations:**

##### **Commencement Information**

- I1** 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.

##### **Annotations:**

##### **Commencement Information**

- I2** 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.)

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### **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.

#### **Annotations:**

##### **Commencement Information**

- I3** 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)
- I4** 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.

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- (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).

**Annotations:**

**Commencement Information**

- I5** 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)
- I6** 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.

**Annotations:**

**Commencement Information**

- I7** 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)

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### 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,
  - (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.

#### Annotations:

#### Commencement Information

- I8** 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,

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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.

**Annotations:**

**Commencement Information**

- I9** 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)
- I10** 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).

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(3) This section shall not apply to an authority in Scotland.

**Annotations:**

**Commencement Information**

- I11** 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.**)
- I12** S. 346(1)(1)(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)

**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.

**Annotations:**

**Commencement Information**

- I13** 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.

**Annotations:**

**Commencement Information**

- I14** 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,

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- (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.

**Annotations:**

**Modifications etc. (not altering text)**

**C1** S. 349(6): 31.1.2007 appointed for the purposes of s. 349 by S.I. 2006/637, art. 2

**Commencement Information**

**I15** 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).

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**Annotations:**

**Commencement Information**

**I16** 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.

**Annotations:**

**Commencement Information**

**I17** 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**

[<sup>F1</sup>(1)] Nothing in this Act authorises a disclosure which contravenes [<sup>F2</sup>the data protection legislation] .

[<sup>F3</sup>(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).]

**Annotations:**

**Amendments (Textual)**

- F1** 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)
- F2** 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)
- F3** 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**

**I18** S. 352 in force at 1.10.2005 by S.I. 2005/2455, art. 2(1), **Sch.** (with art. 3)



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## [<sup>F4</sup>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.]

### Annotations:

### Amendments (Textual)

**F4** 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,

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- “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,
- ["<sup>F5</sup>“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.]
- “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,

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“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,

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- “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
  - (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,

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- (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.

**Annotations:**

**Amendments (Textual)**

- F5** 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**

- I19** 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.

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- (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 [<sup>F6</sup>any of Her Majesty's forces (within the meaning of the Armed Forces Act 2006)]
- (3) [<sup>F7</sup>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 \(asp 5\)](#)).]

#### Annotations:

#### Amendments (Textual)

- F6** 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
- F7** 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

- I20** 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 [<sup>F8</sup>, the Welsh Ministers][<sup>F9</sup>or the Scottish Ministers] under this Act—
- may make provision which applies generally or only for specified purposes or in specified cases or circumstances,
  - may make different provision for different purposes, cases or circumstances, and
  - 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 [<sup>F10</sup>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—
- section 4,
  - section 6,
  - section 7,
  - section 14,
  - section 78,
  - section 123,
  - section 167,
  - section 168,
  - section 236, and

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- (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.
- [<sup>F11</sup>(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.]
- [<sup>F12</sup>(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.]

#### Annotations:

##### Amendments (Textual)

- F8** 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)
- F9** 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))
- F10** 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)
- F11** 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)
- F12** 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

- I21** S. 355 in force at 28.8.2005 by S.I. 2005/2425, art. 2

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### 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).

#### Annotations:

##### Commencement Information

- I22** 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)
- I23** S. 356(1)(2) in force at 24.11.2005 for specified purposes by S.I. 2005/2455, **art. 2(2)** (with art. 3)
- I24** S. 356(1)(2) in force at 25.11.2005 for specified purposes by S.I. 2005/2455, **art. 2(3)** (with art. 3)
- I25** 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)
- I26** 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.)
- I27** 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.)
- I28** 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)
- I29** 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)
- I30** 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)
- I31** 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)
- I32** 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)
- I33** 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)
- I34** 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)
- I35** 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.



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- (2) A sum received by a Minister of the Crown in connection with this Act shall be paid into the Consolidated Fund.

**Annotations:**

**Commencement Information**

**I36** 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;
  - (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—

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- (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.

### **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).

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### 361 Extent

- (1) The following provisions of this Act extend to England and Wales, Scotland and Northern Ireland—
  - (a) section 43,
  - (b) <sup>F13</sup>...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.

#### Annotations:

#### Amendments (Textual)

**F13** 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.

**Changes to legislation:**

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