



# Gambling Act 2005

## 2005 CHAPTER 19

### PART 5

#### OPERATING LICENCES

##### *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

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- (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.

## **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).

## **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).

## **72 Consideration of application: demand**

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

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- (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.

### **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 section 115 of the Police Act 1997 (c. 50) relating to—
  - (a) the applicant, or
  - (b) a person relevant to the application.
- (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).

### **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.