



# Gambling Act 2005

## 2005 CHAPTER 19

### PART 5

#### OPERATING LICENCES

##### *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—

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- (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).

## **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).

## **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.

## **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.

### *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.

**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—

- (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.

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- (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.

#### *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.

## **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.

## **77 Individual condition imposed by Commission**

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

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## **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).

## **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.

## **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,

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- (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.

## **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).

## **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.

## **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.

**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.

**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.

**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.

## **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.

## **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.

### *Rules for particular kinds of licence*

## **89 Remote operating licence**

- (1) This section applies to a remote operating licence.
- (2) A remote operating licence shall, by virtue of this subsection, be subject to the condition that remote gambling equipment used by the licensee in connection with the licensed activities must be situated in Great Britain.
- (3) Where the Commission issues a remote operating licence it may exclude, generally or to a specified extent or for specified purposes, the condition that would otherwise be attached by virtue of subsection (2), if the Commission is satisfied that the exclusion is reasonably consistent with pursuit of the licensing objectives.
- (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.

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- (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.

## **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.

## **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.

## **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.

## **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.

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- (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.

#### **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.

## **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.

## **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—

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- (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.

#### **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.

#### **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).

## **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

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- (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—
- (a) the proceeds of any lottery promoted in reliance on the licence may not exceed £2,000,000, 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.

### *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.

#### **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.

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- (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.

## **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 section 736 of the Companies Act 1985 (c. 6)).
- (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).

### **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.

### **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.

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- (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.

## **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).

## **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).

### **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.

### **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.

### **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.

### *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.

#### **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.

#### **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.

### **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.

### **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)), or
  - (d) sequestration of the licensee's estate is awarded under section 12(1) of the Bankruptcy (Scotland) Act 1985 (c. 66).

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- (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).

## **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.

### *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.

## **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;
  - (d) make, amend or remove an exclusion under section 89(3);
  - (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).

## **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.
- (4) Where the Commission suspends an operating licence it—
  - (a) shall specify the time when the suspension takes effect,
  - (b) shall specify either—

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- (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.

### **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.
- (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).

### **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).

## **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

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- (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.

## **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.

### *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.

## **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.

## **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).

## **126 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,

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“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.