

# Gambling Act 2005



## Information Sheet

### Betting Premises

#### Background

This Act contains a single class of licence for betting premises. However, within this single class of licence, there will be different types of premises which require licensing. This information sheet covers off-course betting, that is betting that takes place other than at a track in what is currently known as a licensed betting office.

Separate guidance notes have been produced in respect of tracks which includes betting offices on tracks, that have a separate premises licence from the track licence.

The Act also permits betting intermediaries to operate from premises, although betting intermediaries usually offer their services via remote communication such as the internet. In principle, however, there is nothing to stop a betting intermediary applying for a betting premises licence to offer intermediary services upon the premises.

Under the Gambling Act 2005 ("the Act") licensing authorities are responsible for issuing and monitoring premises licences for all betting premises.

#### Protection of children

Children and young persons will not be able to enter premises with a betting premises licence, although special rules apply to tracks.

#### Betting in casinos

The regional, large and small categories of new casinos permitted under the Act will be entitled to provide facilities for betting. Betting will be permitted a part of the casino premises licence and they will not require a separate betting premises licence, but they will need to obtain a betting operating licence (which can be combined with their casino licence) in order to offer facilities for betting at a casino. The standards in this respect will be no lower than for operators seeking only to provide facilities for betting alone.

# Gaming machines

## Background

Section 235 of the Act sets out the definition of a gaming machine. That definition is wider than those included in previous gaming legislation and covers all types of gambling activity which can take place on a machine, including betting on virtual events. However, the following should be noted:

- There remains a distinction between skill machines and gaming machines. Skill machines are unregulated; and
- Section 235 contains important exemptions for equipment that is not to be considered a gaming machine, even when gambling can be performed on it. For example, a home PC is not to be classed as a gaming machine, even though someone can access remote gambling on it.

## Gambling Commission

The Commission will license manufacturers and suppliers of gaming machines and will make it a condition of operating licences that machines are obtained only from licensed suppliers. The Licensing Authority has no power to attach a similar condition to permits for clubs, alcohol-licensed premises or family entertainment centres, but permit holders will be advised in guidance from the Commission to obtain machines only from licensed suppliers.

The Commission will set technical standards relating to the way in which each category of machine will operate. The Commission also has the power to test gaming machines, both before they are supplied and in operation in premises, to ensure that they are operating as advertised.

If a Licensing Authority has concerns about the manufacture, supply or repair of machines or the manner in which they are operating, these shall be brought to the attention of the Commission.

## Numbers and categories of gaming machines

Section 172 of the Act prescribes the number and category of gaming machines that are permitted in each type of gambling premises licensed by authorities. Neither the Commission nor Licensing Authorities have the power to set different limits or further expand or restrict the categories of machine that are permitted. In addition, limits are set separately in the Act for certain types of permits issued by Licensing Authorities.

Section 172(8) of the Act provides that the holder of a betting premises licence may make available for use up to four gaming machines of Category B, C or D. In statutory regulations, the Secretary of State will specify that the Category B machines should be restricted to sub-category B2, B3 and B4 machines.

Section 236 of the Act provides for the Secretary of State to make regulations to define four classes of gaming machine: categories A, B, C and D with category B to be further divided into sub-categories. The regulations will define the classes according to the maximum amount that can be paid for playing the machine and the maximum prize it can deliver. The regulations may also define the classes according to the nature of the gambling for which the machine may be used and the premises where a machine may be used.

### **Age restrictions**

There is a minimum age of 18 for all players for all category A, B and C machines. There is no minimum age for players of category D machines, however the Secretary of State has a reserve power to set a minimum age for playing category D machines with an associated power to exempt certain machines like cranes and penny pushers. The holder of a permit or premises licence will have to ensure that he complies with the codes of practice issued by the Commission on the location of and access to such machines by children and young persons, and their separation from category C and B machines where those are also located on the same premises.

See Appendix A, tables A and B for a summary of the categories of gaming machines and the maximum number of machines by premises type.

### **Betting machines**

Section 235(2)(c) provides that a machine is not a gaming machine if it is designed or adapted for use to bet on future real events. Some betting premises may make available machines that accept bets on live events, such as horse racing, as a substitute for placing a bet over the counter. These “betting machines” are not gaming machines and therefore neither count towards the maximum permitted number of gaming machines, nor have to comply with any stake or prize limits. Such betting machines merely automate the process which can be conducted in person and therefore do not require regulation as a gaming machine.

However, where a machine is made available to take bets on virtual races (that is, images generated by computer to resemble races or other events) that machine is a gaming machine and does count towards the maximum permitted number of gaming machines, and must meet the relevant category limitations for the premises.

Section 181 contains an express power for licensing authorities to restrict the number of betting machines, their nature and the circumstances in which they are made available by attaching a licence condition to a betting premises licence or to a casino premises licence (where betting is permitted in the casino). When considering whether to impose a condition to restrict the number of betting machines in particular premises, the licensing authority, amongst other things, should take into account the following:

- size of the premises;
- the number of counter positions available for person-to-person transactions;
- and

- ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people.

## **Betting premises licence conditions**

The Act provides that conditions may be attached to premises licences. Conditions may be attached in the following ways:

- Automatically, having been set out in the Act itself;
- Through statutory regulations made by the Secretary of State;
- By the Commission via operating and personal licences;
- By local Licensing Authorities via the premises licence.

Conditions may also be general in nature (e.g. they attach to all licences or all licences of a particular class) or they may be specific to a particular licence.

## **Conditions under the Act**

Particular sections of the Act provide for certain conditions to be attached automatically to premises licences. The Secretary of State may make regulations requiring these conditions to be set out in the licence. There is no discretion to decide not to include them or to modify them.

As mentioned above, section 172 deals with gaming machines and provides for premises licences to permit a specified number of machines of particular categories in each type of gambling premises.

Section 173 authorises the holder of a casino premises licence or a betting premises licence to make facilities available for betting on virtual events. This is separate from betting on virtual events by means of a gaming machine. These are person-to-person transactions, involving virtual images that are not displayed on a machine.

Section 176 makes it a condition of the premises licence that the licensee must comply with the code of practice issued under this section.

Section 180 applies to all betting premises licences, except a licence in respect of a dog track. It provides that pool betting on dog racing, for example in a high street betting office, may be offered only in accordance with arrangements made with the occupier of the dog track at which the racing is taking place.

This means that the dog track operator controls whether or not pool betting on the races that take place at this track is available outside the track, in other premises where betting is permitted. If he does wish this to happen, he can make arrangements with other betting operating licence holders for them to offer pool betting on the events he holds. This is a transitional measure and it will lapse on 31 December 2012, unless it is repealed before then.

Section 183 of the Act applies to all premises licences. It attaches the condition to the premises licence that facilities for gambling must not be provided on Christmas

Day. In this context, “Christmas Day” covers the period of 00:01 hours on 25 December until 00:00 hours on 26 December.

## **Conditions under statutory regulations**

These types of conditions fall into two categories:

- Mandatory conditions under section 167 of the Act. This section provides for the Secretary of State to set out in regulations conditions that must be attached to premises licences.
- Default conditions under section 168 of the Act. This section provides for the Secretary of State to make default conditions, which will apply unless the local Licensing Authority decides to exclude them using its powers under section 169 of the Act.

Attached as Appendix C is a summary of the mandatory conditions outlined in the statutory order “The Gambling Act 2005 (Mandatory and Default Conditions) (England and Wales) Regulations 2007” in so far as they relate to betting premises.

## **Role of Licensing Authorities**

### **Mandatory conditions**

Where mandatory conditions have been set by the Secretary of State, it is intended that no further regulation in relation to that matter is required. Therefore it is considered extremely unlikely that Licensing Authorities will need to impose individual conditions imposing a more restrictive regime in relation to matters that have already been dealt with by mandatory conditions. Licensing Authorities should only consider doing so where there are regulatory concerns of an exceptional nature and any additional licence conditions must relate to the licensing objectives.

### **Default conditions**

Licensing Authorities have more flexibility in relation to default conditions. A Licensing Authority may exclude a default condition, and substitute it with one that is either more or less restrictive.

It should be noted however that default conditions are intended to be the basic industry norm. While, having regard to the requirements of section 153 of the Act <sup>1</sup>,

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<sup>1</sup> Section 153 states that the Licensing Authority should aim to permit the use of premises for gambling, subject to its view as to whether to do so is:

- a) In accordance with relevant codes of practice issued by the Gambling Commission;

the Commission would expect default conditions to be excluded and replaced with less rigid conditions on a relatively regular basis, Licensing Authorities should ensure that they have clear regulatory reasons for excluding default conditions and replacing them with more restrictive ones.

## **Conditions that may not be attached by Licensing Authorities**

The Act sets out certain matters that may not be the subject of conditions. The relevant sections are:

- **Section 169(4)** – Prohibits the Licensing Authority from imposing a condition on the premises licence which makes it impossible to comply with an operating licence condition;
- **Section 172(10)** – Provides that conditions may not relate to gaming machine categories, numbers, or method of operation;
- **Section 170** – Provides that membership of a club or body cannot be required by attaching a condition to the premises licence. The Act specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated; and
- **Section 171** – Prevents an authority imposing conditions in relation to stakes, fees, winnings or prizes.

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- b) In accordance with the guidance issued by the Gambling Commission;
  - c) Reasonably consistent with the licensing objectives; and
  - d) In accordance with the three year statement of licensing principles published by the local authority.

**Table A – Categories of gaming machines**

Category of machine	Maximum Stake	Maximum Prize
A	Unlimited	Unlimited
B1	£2	£4,000
B2	£100	£500
B3	£1	£500
B4	£1	£250
C	50p	£35
D	10p or 30p when non-monetary prize	£5 cash or £8 non-monetary prize

**Table B – Maximum number of machines by premises type**

Premises Type	Machine Category						
	A	B1	B2	B3	B4	C	D
Regional casino (machine/table ratio of 25-1 up to maximum)	Maximum of 1250 machines Any combination of machines in categories A to D within the total limit of 1250 (subject to table ratio)						
Large casino (machine/table ratio of 5-1 up to maximum)		Maximum of 150 machines Any combination of machines in categories B to D within the total limit of 150 (subject to table ratio)					
Small casino (machine/table ratio of 2-1 up to maximum)		Maximum of 80 machines Any combination of machines in categories B to D within the total limit of 80 (subject to table ratio)					
Pre-2005 Act casinos (no machine/table ratio)		Maximum of 20 machines categories B to D <b>OR</b> C or D machines instead					
Betting premises & tracks occupied by Pool Betting			Maximum of 4 machines categories B2 to D				
Bingo Premises				Maximum of 4 machines in category B3 or B4		No limit C or D machines	
Adult gaming centre				Maximum of 4 machines in category B3 or B4		No limit C or D machines	

Premises Type	Machine Category						
	A	B1	B2	B3	B4	C	D
Family entertainment centre (with premises licence)						No limit C or D machines	
Family entertainment centre (with permit)							No limit on category D machines
Clubs or miners' welfare institutes with permits					Maximum of 3 machines in categories B4 to D		
Qualifying alcohol licensed premises						1 or 2 machines of category C or D automatic upon notification	
Qualifying alcohol licensed premises with gaming machine permit						Number as specified on permit	
Travelling fair							No limit on category D machines
	<b>A</b>	<b>B1</b>	<b>B2</b>	<b>B3</b>	<b>B4</b>	<b>C</b>	<b>D</b>



## Appendix B

<b>Premises:</b>	<b>Direct internal access permitted to:</b>	<b>No direct internal access permitted to:</b>
Casino		Betting shop Bingo hall AGC FEC Club Pub
<b>Betting shop</b>	<b>Track</b>	<b>Casino</b> <b>Bingo hall</b> <b>AGC</b> <b>FEC</b> <b>Club</b> <b>Pub</b>
Track	Betting shop Pub Bingo hall FEC Club	Casino AGC
Bingo hall	FEC Pub Club	Casino Betting shop AGC
AGC		Casino Betting shop Bingo Hall FEC Club Pub
FEC	Bingo hall Club Pub	Casino Betting shop AGC
Club	FEC Pub	Casino Betting shop Bingo hall AGC
Pub	FEC Club Pub	Casino Betting shop AGC

### ***The Gambling Act 2005 (Mandatory and Default Conditions) (England and Wales) Regulations 2007***

#### **Mandatory conditions to be attached to every premises licences**

***The following conditions shall be attached as mandatory conditions to every premises licence:***

- 1) The summary of the terms and conditions of the premises licence issued under section 164(1)(c) of the 2005 Act shall be displayed in a prominent place within the premises;
- 2) The layout of the premises shall be maintained in accordance with the plan;
- 3) The premises shall not be used for:-
  - (a) the sale of tickets in a private lottery or customer lottery,<sup>2</sup> or
  - (b) the sale of tickets in any other lottery in respect of which the sale of tickets on the premises is otherwise prohibited.<sup>3</sup>

#### **Mandatory conditions to be attached to Betting premises licences (other than track premises licences)**

- 1) A notice stating that no person under the age of 18 years is permitted to enter the premises shall be displayed in a prominent place at every entrance to the premises.
- 2) – (1) Access to the premises shall be from a street or from other premises with a betting premises licence.  
  
(2) Without prejudice to sub-paragraph (1), there shall be no means of direct access between the premises and other premises used for the retail sale of merchandise or services.
- 3) Subject to anything permitted by virtue of the 2005 Act, or done in accordance with paragraphs 4, 5, 6 and 7 below, the premises shall not be used for any purpose other than for providing facilities for betting.

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<sup>2</sup> A “private lottery” means a private society lottery or a work lottery within the meaning of paragraphs 10 and 11 of Schedule 11 to the 2005 Act; and

A “customer lottery” has the same meaning as in Part 3 of Schedule 11 to the 2005 Act.

<sup>3</sup> See the National Lottery Regulations 1994 (S.I 1994/189) which prohibits the sale of National Lottery tickets in specified premises licensed for gambling activities.

- 4) Any ATM made available for use on the premises shall be located in a place that requires any customer who wishes to use it to leave any gaming machine or betting machine in order to do so.
- 5) No apparatus for making information or other material available in the form of sounds or visual images may be used on the premises, except for apparatus used for the following purposes:
  - (a) communicating information about, or coverage of, sporting events, including:
    - (i) information relating to betting on such an event; and
    - (ii) any other matter or information, including an advertisement, which is incidental to such an event;
  - (b) communicating information relating to betting on any event (including the result of the event) in connection with which betting transactions may be or have been effected on the premises.
- 6) No publications, other than racing periodicals or specialist betting publications, may be sold or offered for sale on the premises.
- 7) No music, dancing or other entertainment shall be provided or permitted on the premises, save for entertainment provided in accordance with paragraph 5.
- 8) - (1) No alcohol shall be permitted to be consumed on the premises at any time during which facilities for gambling are being provided on the premises.
  - (2) A notice stating the condition in sub-paragraph (1) shall be displayed in a prominent place at every entrance to the premises.
- 9) A notice setting out the terms on which customers are invited to bet on the premises shall be displayed in a prominent place on the premises to which customers have unrestricted access.

## **Default conditions attached to betting premises licences (other than in respect of tracks)**

- 1) No facilities for gambling shall be provided on the premises between the hours of 10 pm on one day and 7 am on the next day.

<b>Table 1 – Contact details for the Licensing Authority:</b>	
East Hampshire District Council Licensing Office PO Box 176 Penns Place Petersfield Hampshire GU31 4WT	Direct Dial No: 01730 234389 Fax No: 01730 234389 Email: <a href="mailto:Licensing@easthants.gov.uk">Licensing@easthants.gov.uk</a> DX No: EHDC 100403 Petersfield

## **Data Protection**

Please note that the Council may provide information submitted on any application form for a licence or permission to other statutory authorities, such as the Department of Culture, Media and Sport (DCMS), Her Majesty's Revenue and Customs (HMRC) and, in the case of application under the Gambling Act 2005, the Gambling Commission.