



# Gambling Act 2005

## 2005 CHAPTER 19

### PART 3

#### GENERAL OFFENCES

##### *Use of premises*

#### **37 Use of premises**

- (1) A person commits an offence if he uses premises, or causes or permits premises to be used, to—
  - (a) operate a casino,
  - (b) provide facilities for the playing of bingo,
  - (c) make a gaming machine available for use,
  - (d) provide other facilities for gaming, or
  - (e) provide facilities for betting (whether by making or accepting bets, by acting as a betting intermediary or by providing other facilities for the making or accepting of bets).
- (2) Subsection (1) does not apply in relation to the use of premises by a person if the use is authorised by a premises licence held by him.
- (3) Subsection (1) does not apply in relation to the use of premises by a person if he acts in the course of a business carried on by another person who holds a premises licence authorising the use.
- (4) Subsection (1) does not apply in relation to the use of a track by a person for accepting bets if the use is authorised by a premises licence (whether or not held by him).
- (5) Subsection (1) does not apply in relation to the use of a casino for the provision of facilities for bingo or betting in accordance with an authorisation under section 174(3).
- (6) Subsection (1) does not apply in relation to the use of premises to provide facilities which are to be used only by persons who—

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*Changes to legislation: There are currently no known outstanding effects for the  
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- (a) are acting in the course of a business, or
  - (b) are not on the premises.
- (7) Other exceptions to subsection (1) are provided in—
- (a) sections 39 and 40,
  - (b) section 214 (temporary use notice),
  - (c) sections 247, 248 and 249 (gaming machines),
  - (d) sections 269, 271 and 273 (clubs and miners' welfare institutes),
  - (e) sections 279, 282 and 283 (premises with alcohol licence),
  - (f) section 287 (travelling fairs),
  - (g) sections 289 to 292 (prize gaming),
  - (h) section 296 (private gaming and betting), and
  - (i) section 298 (non-commercial gaming).
- (8) A person guilty of an offence under this section shall be liable on summary conviction to—
- (a) imprisonment for a term not exceeding 51 weeks,
  - (b) a fine not exceeding level 5 on the standard scale, or
  - (c) both.
- (9) In the application of subsection (8) to Scotland the reference to 51 weeks shall have effect as a reference to six months.

**Commencement Information**

- II** S. 37 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), Sch. 3B (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

**38 Power to amend section 37**

- (1) The Secretary of State may by order amend section 37(1) so as to—
- (a) add a gambling activity,
  - (b) remove a gambling activity, or
  - (c) vary the entry for a gambling activity.
- (2) In subsection (1) “gambling activity” means an activity that is—
- (a) a kind of gambling, or
  - (b) the provision of facilities for a kind of gambling.
- (3) In particular, an order under subsection (1) may have the effect of applying section 37(1) to betting of the kind referred to in section 10(1) (subject to any specified exceptions).
- (4) An order under subsection (1) may, in particular, make consequential amendment of—
- (a) section 150;
  - (b) another provision of Part 8;
  - (c) any provision of this Act, or of another enactment, that relates to Part 8.

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**Commencement Information**

**I2** S. 38 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), Sch. 3B (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

**39 Exception: occasional use notice**

- (1) A person who accepts bets on a track, or who causes or permits premises to be used for the acceptance of bets, does not commit an offence under section 37 if—
  - (a) a notice has been given under this section in respect of the track, and
  - (b) the activity is carried on in accordance with the notice.
- (2) A notice under this section (an “occasional use notice”) in respect of a track may be given only by a person who is—
  - (a) responsible for the administration of events on the track, or
  - (b) an occupier of the track.
- (3) An occasional use notice must—
  - (a) be given in writing to the licensing authority for any area in which the track is wholly or partly situated, and
  - (b) be copied to either—
    - (i) in England and Wales, the chief officer of police for any area in which the track is wholly or partly situated, or
    - (ii) in Scotland, the chief constable of the police force maintained for the police area comprising that area.
- (4) An occasional use notice must specify a day on which it has effect.
- (5) An occasional use notice may not be given in respect of a track for a day in a calendar year if eight occasional use notices have been given in respect of that track for days in that year.
- (6) In this section—
  - (a) “chief officer of police” has the meaning given by section 101(1) of the Police Act 1996 (c. 16), and
  - (b) a reference to a chief officer's area is a reference to the area in respect of which he has responsibility under that Act.
- (7) The Secretary of State may by order amend subsection (5) so as to substitute a different maximum number of occasional use notices for a calendar year.
- (8) An order under subsection (7) increasing the maximum number of occasional use notices for a calendar year may also make provision prohibiting the giving of a temporary use notice in a calendar year in respect of premises if a specified number of occasional use notices have been given in respect of the premises in that year.

**Commencement Information**

**I3** S. 39 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), Sch. 3B (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

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#### **40 Exception: football pools**

- (1) A person does not commit an offence under section 37 if he uses premises to do anything in accordance with an authorisation under section 93(3).
- (2) The Secretary of State may make regulations disapplying subsection (1) to specified classes of premises.

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#### **Commencement Information**

- I4** S. 40 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

**Changes to legislation:**

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Use of premises.