



Gaming (Amendment) Act 1990

1990 CHAPTER 26

An Act to amend the provisions of the Gaming Act 1968 relating to premises licensed or registered under Part II of that Act. [13th July 1990]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Amendments of Gaming Act 1968

Part II of the Gaming Act 1968 and Schedules 2 to 4 to that Act shall have effect with the amendments specified in the Schedule to this Act, being amendments the principal purpose of which is—

- (a) to make new provision with respect to the keeping and production of records in connection with club premises licensed under that Part;
- (b) to require the payment of fees when certificates of consent under Schedule 2 are applied for;
- (c) to require an application for the continuance of a certificate of consent to be made where the certificate is held by a body corporate and there is a change in a controller of that body; and
- (d) to require a public company which is the holder of a licence to notify changes in the holding of its shares.

2 Short title, commencement and extent

- (1) This Act may be cited as the Gaming (Amendment) Act 1990.
- (2) Subject to subsection (3) below, this Act shall come into force at the end of the period of two months beginning with the day on which it is passed.
- (3) Paragraphs 3 and 4 of the Schedule to this Act shall come into force on such day as the Secretary of State may appoint by an order made by statutory instrument; and different days may be appointed for different provisions or for different purposes.

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- (4) Paragraphs 3 and 4 of that Schedule do not affect applications made before they come into force.
- (5) Paragraph 5 of that Schedule applies to certificates of consent issued before as well as after it comes into force.
- (6) This Act does not extend to Northern Ireland.

SCHEDULES

Section 1.

AMENDMENTS OF GAMING ACT 1968

Keeping and production of records

- 1 After paragraph (b) of subsection (1) of section 22 there shall be inserted—
- “(c) during such period as may be so prescribed—
 - (i) to keep those records or (if the regulations so provide) copies of them on the premises; or
 - (ii) where those records are kept by means of a computer, to secure that the records are accessible from the premises and that the information comprised in those records can readily be produced in a form in which it can be taken away and in which it is visible and legible.”
- 2 (1) Section 43 shall be amended as follows.
- (2) For subsection (2) there shall be substituted—
- “(2) Any inspector or constable may at any reasonable time enter any premises in respect of which a licence under this Act is for the time being in force, and while on the premises may—
- (a) inspect the premises and any machine or other equipment on the premises, and any book or document on the premises, which he reasonably requires to inspect for the purpose of ascertaining whether a contravention of this Act or of any regulations made under it is being or has been committed;
 - (b) take copies of any such book or document or of any entry in it; and
 - (c) if any information reasonably required by him for that purpose is contained in a computer and is accessible from the premises, require it to be produced in a form in which it can be taken away and in which it is visible and legible.”
- (3) After paragraph (c) of subsection (3) there shall be inserted—
- “(ca) fails without reasonable excuse to comply with a requirement imposed in relation to those premises under subsection (2)(c) of this section; or”.
- (4) In subsection (5) the word “and” at the end of paragraph (a) shall be omitted and after that paragraph there shall be inserted—
- “(aa) if he has reasonable cause to believe that any information which is contained in a computer and is accessible from the premises may be required for those purposes, require it to be produced in a form in which it can be taken away and in which it is visible and legible; and”.
- (5) After subsection (5) there shall be inserted—
- “(5A) The holder of a licence under this Act in respect of any premises shall be guilty of an offence if he, or any person acting on his behalf, fails without reasonable excuse to comply with a requirement imposed in relation to those premises under subsection (5)(aa) of this section.”

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(6) In subsection (9) after the words “paragraphs (c)” there shall be inserted “, (ca)”.

(7) After subsection (10) there shall be inserted—

“(11) In this section “document” has the same meaning—

- (a) in England and Wales, as in Part I of the Civil Evidence Act 1968 and any reference to a copy of a document shall be construed in accordance with section 10(2) of that Act; and
- (b) in Scotland, as in the Civil Evidence (Scotland) Act 1988 and any reference to a copy of a document shall be construed in accordance with section 6(2) of that Act.”

Fees

3 (1) Section 48 shall be amended as follows.

(2) In subsection (3) for the words “Except as provided by subsection (4)” there shall be substituted the words “Except as provided by subsections (4) and (4A)”.

(3) After paragraph (c) of that subsection there shall be inserted—

- “(ca) in respect of an application for a certificate consenting to the making of an application for the grant of a licence under this Act, a fee of £5,000;
- (cb) in respect of an application for a certificate consenting to the making of an application for the transfer of such a licence, a fee of £2,500;”.

(4) After subsection (4) there shall be inserted—

“(4A) Where the licence to which the certificate relates is to be, or is, subject to the restrictions mentioned in subsection (4) above, the fee to be charged under paragraph (ca) or (cb) of subsection (3) of this section shall be £1,500 or £500 instead of £5,000 or £2,500.”

(5) In subsection (5) for the words “subsection (3) or subsection (4)” there shall be substituted the words “subsection (3), (4) or (4A)”.

(6) In subsection (6) for the words “fees charged in accordance with paragraph (f) or paragraph (g)” there shall be substituted the words “fees charged in accordance with paragraph (ca), (cb), (f) or (g)”.

4 After paragraph 63 of Schedule 2 (payment of fees) there shall be inserted—

“63A No application for a certificate of consent under this Schedule shall be treated as duly made until the appropriate fee has been paid to the Board.”

Application for continuance of consent certificate

5 After paragraph 35 of Schedule 2 there shall be inserted—

*“Application for continuance of certificate
following change of controller of body corporate.*

35A (1) Where the holder of a certificate of consent to his applying for the grant of a licence under this Act (other than a certificate limited to a bingo

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club licence) is a body corporate and at any time while the certificate is in force any person becomes a controller of the holder—

- (a) the holder shall make an application to the Board for the continuance of the certificate in accordance with this paragraph; and
 - (b) on such an application the Board shall continue the certificate in force unless they determine to revoke it under the subsequent provisions of this paragraph.
- (2) An application under this paragraph shall contain such particulars as the holder of the certificate can reasonably provide of the controller in question and of the nature and extent of his interest in the holder of the certificate and in any body corporate of which the holder is a subsidiary.
- (3) An application under this paragraph shall be made within five weeks of the time when the person in question becomes a controller of the holder of the certificate but the Board may, in any particular case, entertain an application made later if—
 - (a) they are satisfied that the failure to make it before the end of that period was due to inadvertence; and
 - (b) the application is made before the end of such extended period as the Board may in that case allow.
- (4) The Board may on an application under this paragraph revoke the certificate to which the application relates if it appears to them that, if the holder were then applying for such a certificate under paragraph 4 of this Schedule, they would in accordance with sub-paragraphs (5) and (6) of that paragraph determine not to issue it; and the Board may also revoke a certificate if the holder fails to make an application in respect of it in accordance with this paragraph in a case in which this paragraph requires him to do so.
- (5) Where a licence (other than a bingo club licence) is transferred to a body corporate and—
 - (a) a person has become a controller of that body corporate at any time between the issuing of a certificate consenting to the application for the transfer and the transfer of the licence; or
 - (b) a person becomes a controller of that body corporate at any subsequent time,sub-paragraphs (1) to (4) above shall apply to that body corporate as they apply to the holder of the certificate by virtue of which the application for the licence was originally made except that the period of five weeks mentioned in sub-paragraph (3) shall, in a case within paragraph (a) above, run from the date on which the licence was transferred.
- (6) Where on an application under this paragraph the Board continue a certificate in force they shall serve on the applicant a notice stating that they have done so; and sub-paragraphs (4), (5) and (6) of paragraph 35 of this Schedule shall have effect in relation to the revocation of a certificate by virtue of this paragraph as they have effect in relation to the revocation of a certificate by virtue of that paragraph.
- (7) In this paragraph “controller”, in relation to a body corporate, means a person who, either alone or with any associate or associates, is entitled

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to exercise, or control the exercise of, 15 per cent. or more of the voting power at any general meeting of the body corporate or of another body corporate of which it is a subsidiary.

- (8) In sub-paragraph (7) above “associate”, in relation to a person entitled to exercise or control the exercise of voting power in relation to a body corporate means—
- (a) the wife or husband or son or daughter of that person;
 - (b) any company of which that person is a director;
 - (c) any person who is an employee or partner of that person;
 - (d) if that person is a company—
 - (i) any director of that company;
 - (ii) any subsidiary of that company; and
 - (iii) any director or employee of any subsidiary; and
 - (e) if that person has with any other person an agreement or arrangement with respect to the acquisition, holding or disposal of shares or other interests in that body corporate or under which they undertake to act together in exercising their voting power in relation to it, that other person.
- (9) In this paragraph “subsidiary” has the same meaning as in the Companies Act 1985.”

Notification of change in shareholding in public company

6 After paragraph 64 of Schedule 2 there shall be inserted—

“Notification of change in shareholding in public company

- 64A (1) Where the holder of a licence under this Act (other than a bingo club licence) is a public company, then, if at any time the company receives any notification under Part VI of the Companies Act 1985, the company shall send a copy of the notification to the Board as soon as reasonably practicable after that time.
- (2) A company which fails to comply with sub-paragraph (1) of this paragraph shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (3) In this paragraph “public company” has the meaning given by section 1(3) of the said Act of 1985.”

Other amendments

- 7 In paragraph 4(6)(b) of Schedule 2 for the words “, the club to which the consent application relates” there shall be substituted the words “in respect of any club, that club”.
- 8 In paragraph 56(4)(b) for the word “maintained” there shall be substituted the word “managed”.
- 9 In paragraph 63(2), for the words “liable under section 21 of the Licensing (Scotland) Act 1959 to” there shall be substituted the word “who”.

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- 10 (1) In Schedule 3 after paragraph 3(a) there shall be inserted—
“(aa) the reference in paragraph 5(3) to the Board, and”.
- (2) In paragraph 4 of that Schedule after the words “references to” there shall be inserted the words “the Board,”.
- (3) In paragraph 3(3) of Schedule 4 the words “the Board,” shall be omitted.