



# Gambling Act 2005

## 2005 CHAPTER 19

### PART 15

#### INSPECTION

##### *Powers and procedure*

#### **317 Powers**

- (1) A constable, enforcement officer or authorised person exercising a power under or by virtue of this Part to enter premises may—
  - (a) inspect any part of the premises and any machine or other thing on the premises;
  - (b) question any person on the premises;
  - (c) require access to any written or electronic record which is kept on the premises;
  - (d) require to be supplied with a copy, in such form as he directs, of an entry in a written or electronic record which is kept on the premises;
  - (e) remove and retain anything if he reasonably believes that it constitutes or contains evidence of—
    - (i) the commission of an offence under this Act, or
    - (ii) the breach of a term or condition of a licence issued under this Act;
  - (f) remove and retain anything if he reasonably believes that it is being used or has been used in the commission of an offence under this Act.
- (2) The Secretary of State may by regulations make provision about the treatment of—
  - (a) copies supplied under subsection (1)(d), and
  - (b) things removed under subsection (1)(e) or (f).
- (3) Regulations under subsection (2) may, in particular, make provision—
  - (a) about the retention, use, return, disposal or destruction of anything supplied or removed;

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- (b) conferring a right of appeal.
- (4) The Secretary of State may by regulations make provision about the procedure to be followed in the exercise of a power under this section.
- (5) Nothing in this Part authorises action to be taken in England and Wales in respect of anything of a kind specified in section 9(2) of the Police and Criminal Evidence Act 1984 (c. 60) (legally privileged material, &c.).
- (6) A person exercising a power under or by virtue of this Part shall have regard to any relevant provision of a code of practice under that Act (and guidance under section 25 may refer to a provision of a code).
- (7) Subsection (6) does not apply as respects the exercise of a power in relation to Scotland.

### **318 Dwellings**

- (1) A power under this Part to enter premises without a warrant does not apply in relation to a dwelling.
- (2) A justice of the peace may on the application of a constable, enforcement officer or authorised person issue a warrant authorising a constable, enforcement officer or authorised person to enter premises if the justice of the peace is satisfied—
  - (a) that, but for subsection (1), a constable, enforcement officer or authorised person would be able to enter the premises without a warrant in reliance on a provision of this Part, and
  - (b) that at least one of the conditions in subsection (3) is satisfied.
- (3) Those conditions are—
  - (a) that admission to the premises has been refused,
  - (b) that admission to the premises is likely to be refused unless a warrant is produced,
  - (c) that the purpose of entry may be frustrated or seriously prejudiced unless a constable, enforcement officer or authorised person arriving at the premises can secure immediate entry, and
  - (d) that there is likely to be nobody at the premises capable of granting admission.
- (4) A warrant may be granted in reliance on subsection (3)(a) or (b) only if the justice of the peace is satisfied—
  - (a) that notice has been given to a person occupying the premises, or having responsibility for their management, of intent to apply for a warrant, or
  - (b) that the purpose of entry may be frustrated or seriously prejudiced by the giving of notice under paragraph (a).
- (5) A warrant under subsection (2) shall cease to have effect at the end of the period of 28 days beginning with the day of issue.
- (6) In the application of this section or section 319 to Scotland, any reference to a justice of the peace is to be construed as a reference to the sheriff or a justice of the peace.

### **319 Records**

- (1) A constable, enforcement officer or authorised person exercising a power of entry under or by virtue of this Part may exercise a power under section 317(1)(c) to (e) in relation to records (whether written or electronic) only if the records relate entirely to the matters to which the power of entry relates.
- (2) A justice of the peace may on the application of a constable, enforcement officer or authorised person issue a warrant disapplying subsection (1) to a specified extent if the justice of the peace is satisfied that the disapplication is necessary.
- (3) A warrant may be granted under subsection (2) only if the justice of the peace is satisfied—
  - (a) that notice has been given to a person in control of the records of intent to apply for a warrant, or
  - (b) that the purpose of exercising the power of entry may be frustrated or seriously prejudiced by the giving of notice under paragraph (a).
- (4) A warrant under subsection (2) shall cease to have effect at the end of the period of 28 days beginning with the day of issue.

### **320 Timing**

A power under or by virtue of this Part may be exercised only at a reasonable time.

### **321 Evidence of authorisation**

An enforcement officer or authorised person seeking to exercise a power under or by virtue of this Part must produce evidence of his identity and authority to a person (if there is one) who appears to the enforcement officer or authorised person to be occupying the relevant premises or to have responsibility for their management.

### **322 Information**

- (1) The Secretary of State shall make regulations requiring a person who exercises a power under or by virtue of this Part to provide information about the power and its exercise.
- (2) Regulations under subsection (1) shall, in particular, make provision about—
  - (a) the information to be provided (which may include ancillary information about a provision of this Act or another enactment or about a rule of law);
  - (b) the form and manner in which the information is to be provided;
  - (c) the person to whom, or the place at which, the information is to be provided (which may, in particular, include provision for the supply of a copy if requested by a person within a specified class);
  - (d) timing.
- (3) A constable, enforcement officer or authorised person exercising a power under or by virtue of this Part shall comply with any relevant provision of regulations under this section.

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### **323 Use of force**

- (1) A constable may use reasonable force for the purpose of entering premises in pursuance of a power under or by virtue of this Part.
- (2) An enforcement officer may use reasonable force for the purpose of entering premises in pursuance of a power under or by virtue of section 306 or 307.
- (3) An authorised person may use reasonable force for the purpose of entering premises in pursuance of a power under section 307.

### **324 Person accompanying inspector, &c.**

A constable, enforcement officer or authorised person exercising a power under or by virtue of this Part to enter premises may take one or more persons with him.

### **325 Securing premises after entry**

A person who enters premises in reliance on a power under or by virtue of this Part shall take reasonable steps to ensure that when he leaves the premises they are as secure as they were before he entered.

### **326 Obstruction**

- (1) A person commits an offence if without reasonable excuse he obstructs, or fails to cooperate with, a constable, enforcement officer or authorised person who is exercising or seeking to exercise a power under or by virtue of this Part.
- (2) A person guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.