Gambling Act 2005

2005 CHAPTER 19

PART 15

INSPECTION

Inspectors

303 Enforcement officers

(1) The Commission—

(a) may designate employees of the Commission as enforcement officers for the purposes of this Act, and

(b) may appoint persons other than employees of the Commission as enforcement officers for the purposes of this Act.

(2) The Commission may pay to or in respect of an enforcement officer who is not an employee of the Commission sums by way of or in respect of—

(a) remuneration;

(b) allowances;

(c) expenses;

(d) pension;

(e) gratuity.

Commencement Information

I1 S. 303 in force at 21.5.2007 by S.I. 2006/3272, art. 2(2), **Sch. 2** (with arts. 7-11, 7-12, Sch. 4) (as amended by S.I. 2007/1157, arts. 3(3), 4)

304 Authorised persons

(1) In this Act—

(a) "authorised person" has the meaning given by this section, and

(b) a reference to an authorised local authority officer is a reference to a person who is an authorised person by virtue of subsection (2).

(2) An officer of a licensing authority is an authorised person for a purpose relating to premises if—

(a) the premises are wholly or partly situated in the authority's area, and

(b) the officer is designated by the authority as an authorised person for the purposes of this section.

(3) An officer of an authority other than a licensing authority is an authorised person for a purpose relating to premises if—

(a) the authority has statutory functions, for an area in which the premises are wholly or partly situated, in relation to minimising or preventing the risk of pollution of the environment or of harm to human health, and

(b) the officer is authorised by the authority for the purpose of exercising any of those statutory functions.

(4) The following are authorised persons for purposes relating to any premises—

[[F1](a) where Part 3 of the Fire (Scotland) Act 2005 (asp 5) applies, an enforcement officer appointed under section 61(3) of that Act,**]**

(b) an inspector appointed under section 19 of the Health and Safety at Work etc. Act 1974 (c. 37) (inspectors),

(c) an inspector or surveyor of ships appointed under section 256 of the Merchant Shipping Act 1995 (c. 21) (enforcement),

(d) a person who is within a class prescribed by the Secretary of State by regulations.

Textual Amendments

F1 S. 304(4)(a) substituted (S.) (1.10.2006) by Fire (Scotland) Act 2005 (Consequential Modifications and Savings) Order 2006 (S.S.I. 2006/475), art. 1, **sch. 1 para. 16(3)**

Commencement Information

I2 S. 304 in force at 21.5.2007 by S.I. 2006/3272, art. 2(2), **Sch. 2** (with arts. 7-11, 7-12, Sch. 4) (as amended by S.I. 2007/1157, arts. 3(3), 4)

Kinds of inspection

305 Compliance

A constable, enforcement officer or authorised person may undertake activities for the purpose of assessing—

(a) compliance with provision made by or by virtue of this Act;

(b) whether an offence is being committed under or by virtue of this Act.

Commencement Information

I3 S. 305 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.)

306 Suspected offence

(1) A constable or enforcement officer may enter premises if he reasonably suspects that an offence under this Act may be—

(a) being committed on the premises, or

(b) about to be committed on the premises.

(2) A justice of the peace may on the application of a constable or enforcement officer issue a warrant authorising a constable or enforcement officer to enter premises if the justice of the peace is satisfied—

(a) that there are reasonable grounds for suspecting that an offence under this Act has been committed on the premises,

(b) that there are reasonable grounds for suspecting that evidence of the commission of the offence may be found on the premises, and

(c) 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 or enforcement officer 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 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.

Commencement Information

I4 S. 306 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.)

307 Inspection of gambling

(1) A constable, enforcement officer or authorised person may enter premises to which this section applies for a purpose specified in subsection (3).

(2) This section applies to premises if a constable, enforcement officer or authorised person reasonably suspects that facilities for gambling other than private and non-commercial gaming or betting may be being provided, may be about to be provided or have been provided, on the premises.

(3) The purposes mentioned in subsection (1) are—

(a) to discover whether facilities for gambling other than private and non-commercial gaming or betting are being provided, are about to be provided or have been provided on the premises,

(b) to determine whether an operating licence or premises licence is held in respect of the provision of facilities for gambling on the premises, and

(c) to determine whether facilities are being, will be or have been provided in accordance with the terms and conditions of an operating licence or premises licence.

Commencement Information

I5 S. 307 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.)

308 Operating licence holders

(1) A constable or enforcement officer may enter premises to which this section applies for the purpose specified in subsection (3).

(2) This section applies to premises which a constable or enforcement officer reasonably believes to be used by the holder of an operating licence wholly or partly for purposes connected with the licensed activities.

(3) The purpose mentioned in subsection (1) is to determine whether the licensed activities are being carried on in accordance with the terms and conditions of the operating licence.

Commencement Information

I6 S. 308 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.)

309 Family entertainment centres

(1) A constable, enforcement officer or authorised local authority officer may enter premises in respect of which an application has been made for a family entertainment centre gaming machine permit for a purpose connected with the consideration of the application.

(2) A constable, enforcement officer or authorised local authority officer may enter premises in respect of which a family entertainment centre gaming machine permit

has effect for the purpose of determining whether the gaming machines used on the premises, and the arrangements for their use, comply with the requirements of this Act and regulations under it.

Commencement Information

I7 S. 309(1) in force at 21.5.2007 by S.I. 2006/3272, art. 2(2), **Sch. 2** (with arts. 7-11, 7-12, Sch. 4) (as amended by S.I. 2007/1157, arts. 3(3), 4)

I8 S. 309(2) 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.)

310 Premises licensed for alcohol

(1) An enforcement officer or an authorised local authority officer may enter premises in respect of which an application has been made under Schedule 13 for a purpose connected with the consideration of the application.

(2) A constable, enforcement officer or authorised local authority officer may enter premises in respect of which an on-premises alcohol licence has effect for the purpose of—

(a) determining whether gaming carried on satisfies the conditions in section 279;

(b) in the case of bingo played on the premises, determining—

(i) whether the terms and conditions of any relevant operating licence are being complied with;

(ii) whether section 281 applies;

(c) ascertaining the number and category of gaming machines being made available for use on the premises.

Commencement Information

I9 S. 310(1) in force at 21.5.2007 by S.I. 2006/3272, art. 2(3), **Sch. 3** (with arts. 7-11, 7-12, Sch. 4) (as amended by SI 2007/1157, art. 3(3), 4(2))

I10 S. 310(1) in force at 1.8.2007 by S.I. 2006/3272, art. 2(3A), **Sch. 3A** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/1157, arts. 3(4), 6, Sch. 2)

I11 S. 310(2) 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.)

311 Prize gaming permit

(1) A constable, enforcement officer or authorised local authority officer may enter premises in respect of which an application has been made for a prize gaming permit for a purpose connected with the consideration of the application.

(2) A constable, enforcement officer or authorised local authority officer may enter premises in respect of which a prize gaming permit has effect for the purposes of determining whether prize gaming on the premises complies with the requirements of this Act and regulations under it.

Commencement Information

I12 S. 311(1) in force at 21.5.2007 by S.I. 2006/3272, art. 2(2), **Sch. 2** (with arts. 7-11, 7-12, Sch. 4) (as amended by S.I. 2007/1157, arts. 3(3), 4)

I13 S. 311(2) 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.)

312 Clubs

(1) A constable or enforcement officer may enter premises to which this section applies for a purpose specified in subsection (3).

(2) This section applies to premises which a constable or enforcement officer reasonably believes to be used by a members' club, a commercial club or a miners' welfare institute.

(3) The purposes mentioned in subsection (1) are—

(a) to determine whether gaming is taking place on the premises or is about to take place on the premises,

(b) to determine whether any gaming that is taking place or is about to take place on the premises is in accordance with—

(i) section 269,

(ii) a club gaming permit, or

(iii) a club machine permit.

(4) An authorised local authority officer may enter premises in respect of which an application has been made for a club gaming permit or a club machine permit for a purpose connected with the consideration of the application.

Commencement Information

I14 S. 312(1)-(3) 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.)

I15 S. 312(4) in force at 21.5.2007 by S.I. 2006/3272, art. 2(3), **Sch. 3** (with arts. 7-11, 7-12, Sch. 4) (as amended by SI 2007/1157, art. 3(3), 4(2))

I16 S. 312(4) in force at 1.8.2007 by S.I. 2006/3272, art. 2(3A), **Sch. 3A** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/1157, arts. 3(4), 6, Sch. 2)

313 Licensed premises

(1) A constable, enforcement officer or authorised person may enter premises in respect of which an application for a premises licence has been made to assess, having regard to the licensing objectives, the likely effects of activity carried on in reliance on the premises licence.

(2) A constable, enforcement officer or authorised person may enter premises in respect of which a premises licence has effect for a purpose connected with a review under section 201.

Modifications etc. (not altering text)

C1 S. 313(2) applied (1.1.2007) by The Gambling Act 2005 (Commencement No. 6 and Transitional Provisions) Order 2006 (S.I. 2006/3272), art. 1(1), **Sch. 4 para. 64(6)**

Commencement Information

I17 S. 313(1) in force at 21.5.2007 by S.I. 2006/3272, art. 2(2), **Sch. 2** (with arts. 7-11, 7-12, Sch. 4) (as amended by S.I. 2007/1157, arts. 3(3), 4)

I18 S. 313(2) 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.)

314 Lotteries: registered societies

Where a society is registered with a local authority in accordance with Part 5 of Schedule 11, an enforcement officer or an authorised local authority officer may enter premises owned or used by the society for the purpose of making inquiries in connection with a lottery promoted on behalf of the society.

Commencement Information

I19 S. 314 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.)

315 Temporary use notice

(1) A constable, enforcement officer or authorised person may enter premises in respect of which a temporary use notice has been given to assess, having regard to the licensing objectives, the likely effects of activity carried on in reliance on the temporary use notice.

(2) A constable, enforcement officer or authorised person may enter premises in respect of which a temporary use notice has effect to determine whether an activity of a kind listed in section 37(1) is being carried on otherwise than in accordance with the temporary use notice.

Commencement Information

I20 S. 315 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.)

316 Authorisations: production on demand

(1) A constable or enforcement officer may require the holder of an operating licence to produce to the constable or enforcement officer within a specified period a copy of any authorisation given by the holder of the licence under section 93(2) or (3) or 94(2).

(2) While a person is holding himself out as willing to accept bets on behalf of the holder of an operating licence in accordance with section 93(2) or (3) or 94(2), a constable or enforcement officer may require the person to produce a copy of his authorisation under that section—

(a) within a specified period, or
(b) immediately.

(3) A constable or enforcement officer may require the holder of a casino premises licence to produce to the constable or enforcement officer within a specified period a copy of any authorisation given by the holder of the licence under section 174(3).

(4) While a person is carrying on an activity in reliance on an authorisation under section 174(3), a constable or enforcement officer may require the person to produce a copy of his authorisation under that section—
(a) within a specified period, or
(b) immediately.

(5) A person commits an offence if he fails without reasonable excuse to comply with a requirement imposed under this section.

(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.

Commencement Information

I21 S. 316 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.)

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;

(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.

Commencement Information

I22 S. 317 in force at 21.5.2007 by S.I. 2006/3272, art. 2(2), **Sch. 2** (with arts. 7-11, 7-12, Sch. 4) (as amended by S.I. 2007/1157, arts. 3(3), 4)

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.

Commencement Information

I23 S. 318 in force at 21.5.2007 by S.I. 2006/3272, art. 2(2), **Sch. 2** (with arts. 7-11, 7-12, Sch. 4) (as amended by S.I. 2007/1157, arts. 3(3), 4)

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.

Commencement Information

I24 S. 319 in force at 21.5.2007 by S.I. 2006/3272, art. 2(2), **Sch. 2** (with arts. 7-11, 7-12, Sch. 4) (as amended by S.I. 2007/1157, arts. 3(3), 4)

320 Timing

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

Commencement Information

I25 S. 320 in force at 21.5.2007 by S.I. 2006/3272, art. 2(2), **Sch. 2** (with arts. 7-11, 7-12, Sch. 4) (as amended by S.I. 2007/1157, arts. 3(3), 4)

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.

Commencement Information

I26 S. 321 in force at 21.5.2007 by S.I. 2006/3272, art. 2(2), **Sch. 2** (with arts. 7-11, 7-12, Sch. 4) (as amended by S.I. 2007/1157, arts. 3(3), 4)

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.

Commencement Information

I27 S. 322 in force at 21.5.2007 by S.I. 2006/3272, art. 2(2), **Sch. 2** (with arts. 7-11, 7-12, Sch. 4) (as amended by S.I. 2007/1157, arts. 3(3), 4)

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.

Commencement Information

I28 S. 323 in force at 21.5.2007 by S.I. 2006/3272, art. 2(2), **Sch. 2** (with arts. 7-11, 7-12, Sch. 4) (as amended by S.I. 2007/1157, arts. 3(3), 4)

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.

Commencement Information

I29 S. 324 in force at 21.5.2007 by S.I. 2006/3272, art. 2(2), **Sch. 2** (with arts. 7-11, 7-12, Sch. 4) (as amended by S.I. 2007/1157, arts. 3(3), 4)

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.

Commencement Information

I30 S. 325 in force at 21.5.2007 by S.I. 2006/3272, art. 2(2), **Sch. 2** (with arts. 7-11, 7-12, Sch. 4) (as amended by S.I. 2007/1157, arts. 3(3), 4)

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.

Commencement Information

I31 S. 326 in force at 21.5.2007 by S.I. 2006/3272, art. 2(2), **Sch. 2** (with arts. 7-11, 7-12, Sch. 4) (as amended by S.I. 2007/1157, arts. 3(3), 4)

Changes to legislation:
There are currently no known outstanding effects for the Gambling Act 2005, Part 15.