



# Gambling Act 2005

## 2005 CHAPTER 19

### PART 3

#### GENERAL OFFENCES

##### *Provision of facilities for gambling*

### **33 Provision of facilities for gambling**

- (1) A person commits an offence if he provides facilities for gambling unless—
  - (a) an exception provided for in subsection (2) or (3) applies, or
  - (b) an exception provided for by any of the following provisions applies—
    - (i) sections 34 and 35,
    - (ii) sections 269 and 271 (clubs and miners' welfare institutes),
    - (iii) section 279 (premises with alcohol licence),
    - (iv) sections 289 to 292 (prize gaming),
    - (v) section 296 (private gaming and betting), and
    - (vi) section 298 (non-commercial gaming).
- (2) Subsection (1) does not apply to any activity by a person if—
  - (a) he holds an operating licence authorising the activity, and
  - (b) the activity is carried on in accordance with the terms and conditions of the licence.
- (3) Subsection (1) does not apply to any activity by a person if—
  - (a) he acts in the course of a business carried on by a person who holds an operating licence authorising the activity, and
  - (b) the activity is carried on in accordance with the terms and conditions of the licence.
- (4) A person guilty of an offence under this section shall be liable on summary conviction to—

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- (a) imprisonment for a term not exceeding 51 weeks,
- (b) a fine not exceeding level 5 on the standard scale, or
- (c) both.

(5) In the application of subsection (4) to Scotland the reference to 51 weeks shall have effect as a reference to six months.

**Modifications etc. (not altering text)**

- C1** S. 33 modified by SI 2006/3272 art. 8(1)(2) (as inserted (16.8.2007) by [The Gambling Act 2005 \(Commencement No. 6 and Transitional Provisions\) \(Amendment\) \(No. 2\) Order 2007](#) (S.I. 2007/2169), arts. 1(1), 5)
- C2** S. 33 modified (temp.) (1.9.2007) by [Gambling Act 2005 \(Horse Race Totalisator Board\) Order 2007](#) (S.I. 2007/2102), arts. 1, 3

**Commencement Information**

- I1** S. 33 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.](#))

**34 Exception: lotteries**

Section 33 shall not apply to the provision of facilities for a lottery.

**Commencement Information**

- I2** S. 34 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.](#))

**35 Exception: gaming machines**

Section 33 shall not apply to making a gaming machine available for use.

**Commencement Information**

- I3** S. 35 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.](#))

**36 Territorial application**

- (1) For the purposes of section 33 it is immaterial whether facilities are provided—
  - (a) wholly or partly by means of remote communication;
  - (b) subject to subsections (2) and (3), inside the United Kingdom, outside the United Kingdom, or partly inside and partly outside.
- (2) Section 33 applies to the provision of facilities for non-remote gambling only if anything done in the course of the provision of the facilities is done in Great Britain.
- (3) Section 33 applies to the provision of facilities for remote gambling only if at least one piece of remote gambling equipment used in the provision of the facilities is situated

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in Great Britain (but whether or not the facilities are provided for use wholly or partly in the United Kingdom).

- (4) In this Act “remote gambling equipment” means, subject to subsection (5), electronic or other equipment used by or on behalf of a person providing facilities for remote gambling—
- (a) to store information relating to a person's participation in the gambling,
  - (b) to present, to persons who are participating or may participate in the gambling, a virtual game, virtual race or other virtual event or process by reference to which the gambling is conducted,
  - (c) to determine all or part of a result or of the effect of a result, or
  - (d) to store information relating to a result.
- (5) In this Act “remote gambling equipment” does not include equipment which—
- (a) is used by a person to take advantage of remote gambling facilities provided by another person, and
  - (b) is not provided by that other person.

#### **Commencement Information**

- 14** S. 36 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.)

### *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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- (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

**I5** 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

- I6** 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

- I7** 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.

#### **Commencement Information**

**18** 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.)

### *Miscellaneous offences*

#### **41 Gambling software**

- (1) A person commits an offence if in the course of a business he manufactures, supplies, installs or adapts gambling software unless he acts in accordance with an operating licence.
- (2) In this Act “gambling software”—
  - (a) means computer software for use in connection with remote gambling, but
  - (b) does not include anything for use solely in connection with a gaming machine.
- (3) A person does not supply or install gambling software for the purposes of subsection (1) by reason only of the facts that—
  - (a) he makes facilities for remote communication or non-remote communication available to another person, and
  - (b) the facilities are used by the other person to supply or install gambling software.
- (4) 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.
- (5) In the application of subsection (4) to Scotland the reference to 51 weeks shall have effect as a reference to six months.

#### **Commencement Information**

**19** S. 41 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.)

#### **42 Cheating**

- (1) A person commits an offence if he—
  - (a) cheats at gambling, or

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- (b) does anything for the purpose of enabling or assisting another person to cheat at gambling.
- (2) For the purposes of subsection (1) it is immaterial whether a person who cheats—
  - (a) improves his chances of winning anything, or
  - (b) wins anything.
- (3) Without prejudice to the generality of subsection (1) cheating at gambling may, in particular, consist of actual or attempted deception or interference in connection with—
  - (a) the process by which gambling is conducted, or
  - (b) a real or virtual game, race or other event or process to which gambling relates.
- (4) A person guilty of an offence under this section shall be liable—
  - (a) on conviction on indictment, to imprisonment for a term not exceeding two years, to a fine or to both, or
  - (b) on summary conviction, to imprisonment for a term not exceeding 51 weeks, to a fine not exceeding the statutory maximum or to both.
- (5) In the application of subsection (4) to Scotland the reference to 51 weeks shall have effect as a reference to six months.
- (6) Section 17 of the Gaming Act 1845 (c. 109) (winning by cheating) shall cease to have effect.

#### **Commencement Information**

**I10** S. 42 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.)

### **43 Chain-gift schemes**

- (1) A person commits an offence if he—
  - (a) invites another to join a chain-gift scheme, or
  - (b) knowingly participates in the promotion, administration or management of a chain-gift scheme.
- (2) An arrangement is a “chain-gift” scheme if—
  - (a) in order to participate in the arrangement a person must make a payment to one or more other participants (a “joining fee”), and
  - (b) each person who participates in the arrangement—
    - (i) is required or invited to invite others to participate, and
    - (ii) is encouraged to believe that he will receive the joining fees, or part of the joining fees, of other participants, to an amount in excess of the joining fee paid by him.
- (3) For the purposes of subsection (2)—
  - (a) “payment” means a payment of money or money's worth, but does not include the provision of goods or services, and
  - (b) it is immaterial whether a payment is made directly or through a person responsible for managing or administering the scheme.

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- (4) A person guilty of an offence under this section shall be liable on summary conviction to—
- (a) imprisonment for a period not exceeding 51 weeks,
  - (b) a fine not exceeding level 5 on the standard scale, or
  - (c) both.
- (5) In the application of subsection (4) to Scotland or Northern Ireland the reference to 51 weeks shall have effect as a reference to six months.

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**Commencement Information**

**I11** S. 43 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.)

**44 Provision of unlawful facilities abroad**

- (1) A person commits an offence if he does anything in Great Britain, or uses remote gambling equipment situated in Great Britain, for the purpose of inviting or enabling a person in a prohibited territory to participate in remote gambling.
- (2) In subsection (1) “prohibited territory” means a country or place designated for the purpose of this section by order made by the Secretary of State.
- (3) An order under subsection (2) shall prescribe the mode of trial and maximum penalty for an offence under subsection (1).

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**Commencement Information**

**I12** S. 44 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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