



# Gambling Act 2005

## 2005 CHAPTER 19

### PART 5

#### OPERATING LICENCES

##### *Regulation*

#### 116 Review

- (1) The Commission may in relation to operating licences of a particular description review—
  - (a) the manner in which licensees carry on licensed activities, and
  - (b) in particular, arrangements made by licensees to ensure compliance with conditions attached under section 75, 77 or 78.
- (2) The Commission may review any matter connected with the provision of facilities for gambling as authorised by an operating licence if the Commission—
  - (a) has reason to suspect that activities may have been carried on in purported reliance on the licence but not in accordance with a condition of the licence,
  - (b) believes that the licensee, or a person who exercises a function in connection with or is interested in the licensed activities, has acquired a conviction of a kind mentioned in section 71(1), or
  - (c) for any reason—
    - (i) suspects that the licensee may be unsuitable to carry on the licensed activities, or
    - (ii) thinks that a review would be appropriate.
- (3) For the purposes of subsection (2)(c) a reason—
  - (a) may, in particular, relate to the receipt of a complaint about the licensee's activities;
  - (b) need not relate to any suspicion or belief about the licensee's activities.

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- (4) Before commencing a review of an operating licence under subsection (2) the Commission shall—
  - (a) notify the licensee, and
  - (b) inform him of the procedure to be followed in the conduct of the review.
- (5) In conducting a review of an operating licence under subsection (2) the Commission—
  - (a) shall give the licensee an opportunity to make representations, and
  - (b) may give other persons an opportunity to make representations.

## **117 Regulatory powers**

- (1) Following a review under section 116(1) or (2) the Commission may—
  - (a) give the holder of an operating licence a warning;
  - (b) attach an additional condition to a licence under section 77;
  - (c) remove or amend a condition attached to a licence under section 77;
  - (d) make, amend or remove an exclusion under section 89(3);
  - (e) exercise the power under section 118 to suspend a licence;
  - (f) exercise the power under section 119 to revoke a licence;
  - (g) exercise the power under section 121 to impose a penalty.
- (2) Where the Commission determines to take action under subsection (1) in respect of a licence it shall as soon as is reasonably practicable notify the licensee of—
  - (a) the action, and
  - (b) the Commission's reasons.
- (3) In determining what action to take under subsection (1) following a review the Commission may have regard to a warning under that subsection given to the licensee following an earlier review (whether or not of that licence).

## **118 Suspension**

- (1) The Commission may suspend an operating licence if following a review under section 116(1) or (2) the Commission thinks that any of the conditions specified in section 120(1) applies.
- (2) The Commission may suspend an operating licence if at the time of deciding to conduct a review under section 116(1) or (2), or at any time during the course of a review, the Commission suspects that any of the conditions specified in section 120(1) may apply.
- (3) The Commission may suspend an operating licence if it thinks that any of the conditions specified in section 120(2) applies.
- (4) Where the Commission suspends an operating licence it—
  - (a) shall specify the time when the suspension takes effect,
  - (b) shall specify either—
    - (i) a period for which the suspension shall last (which is without prejudice to the re-exercise of the power under subsection (1) on or after the expiry of that period), or
    - (ii) that the suspension shall last until some specified event occurs (which may be the giving of a notice by the Commission), and

- (c) may make saving or transitional provision (which may, in particular, provide for a licence to continue to have effect in relation to a gaming machine supplied, or another thing done, before the time when the suspension takes effect for other purposes).
- (5) An operating licence shall have no effect in respect of anything done while it is suspended under this section.

## **119 Revocation**

- (1) The Commission may revoke an operating licence if following a review under section 116(1) or (2) the Commission thinks that any of the conditions specified in section 120(1) applies.
- (2) The Commission may revoke an operating licence if it thinks that any of the conditions specified in section 120(2) applies.
- (3) The Commission shall revoke an operating licence if the licensee fails to pay the annual fee in accordance with section 100; but the Commission may disapply this subsection if it thinks that a failure to pay is attributable to administrative error.
- (4) Where the Commission revokes an operating licence it—
  - (a) shall specify the time when the revocation takes effect, and
  - (b) may make saving or transitional provision (which may, in particular, provide for a licence to continue to have effect in relation to a gaming machine supplied, or another thing done, before the time when the revocation takes effect for other purposes).

## **120 Conditions for suspension or revocation**

- (1) The conditions referred to in sections 118(1) and (2) and 119(1) are—
  - (a) that a licensed activity is being or has been carried on in a manner which is inconsistent with the licensing objectives,
  - (b) that a condition of the licence has been breached,
  - (c) that the licensee has failed to cooperate with a review under section 116(1) or (2), or
  - (d) that the licensee is unsuitable to carry on the licensed activities.
- (2) The conditions referred to in sections 118(3) and 119(2) are—
  - (a) that the licensee has failed to comply with a requirement of regulations under section 101, or
  - (b) that the licensee has failed to submit the licence to the Commission for amendment in accordance with section 105.
- (3) In considering a licensee's suitability for the purpose of subsection (1)(d) the Commission may, in particular, have regard to—
  - (a) the integrity of the licensee or of any person who exercises a function in connection with or is interested in the licensed activities;
  - (b) the competence of the licensee, or of any person who exercises a function in connection with the licensed activities, to carry on the licensed activities in a manner consistent with pursuit of the licensing objectives;

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- (c) the financial and other circumstances of the licensee or of any person who exercises a function in connection with or is interested in the licensed activities (and, in particular, the resources available for the purpose of carrying on the licensed activities).

## **121 Financial penalty**

- (1) The Commission may require the holder of an operating licence to pay a penalty if the Commission thinks that a condition of the licence has been breached.
- (2) Before imposing a requirement on a licensee to pay a penalty under this section the Commission must notify him—
  - (a) that the Commission proposes to require him to pay a penalty,
  - (b) of the amount of the proposed penalty,
  - (c) of the Commission’s reasons, and
  - (d) of a period within which he may make representations to the Commission.
- (3) The Commission may not give a notice under subsection (2) in respect of the breach of a condition after the end of the period of two years beginning with—
  - (a) the day on which the breach occurred or began to occur, or
  - (b) if later, the day on which the breach came to the knowledge of the Commission.
- (4) After the end of the period specified under subsection (2)(d) the Commission may give the licensee a notice requiring him to pay a penalty under this section.
- (5) A penalty imposed by notice under subsection (4)—
  - (a) shall be payable by the licensee to the Commission,
  - (b) may be enforced as if it were a debt owed by the licensee to the Commission, and
  - (c) on receipt by the Commission shall be paid into the Consolidated Fund after deduction of a sum which represents the direct costs to the Commission of, and a reasonable share of expenditure by the Commission which is indirectly referable to—
    - (i) the investigation by the Commission of the matter in respect of which the penalty is imposed (whether by review under section 116 or otherwise), or
    - (ii) the imposition and enforcement of the penalty.
- (6) The Commission shall—
  - (a) prepare a statement setting out the principles to be applied by the Commission in exercising the powers under this section,
  - (b) review the statement from time to time,
  - (c) revise the statement when the Commission thinks it necessary,
  - (d) as soon as is reasonably practicable—
    - (i) send the statement and any revision to the Secretary of State, and
    - (ii) publish the statement and any revision, and
  - (e) have regard to the statement when exercising a power under this section.

- (7) The statement maintained under subsection (6) must, in particular, require the Commission in considering the imposition of a penalty under this section or the amount of a penalty to have regard, in particular, to—
- (a) the seriousness of the breach of condition in respect of which the penalty is proposed,
  - (b) whether or not the licensee knew or ought to have known of the breach, and
  - (c) the nature of the licensee (including, in particular, his financial resources).
- (8) Before preparing or revising a statement under subsection (6) the Commission shall consult—
- (a) the Secretary of State,
  - (b) the Lord Chancellor, and
  - (c) such other persons as the Commission thinks appropriate.

## **122 Information**

- (1) The holder of an operating licence shall comply with a request of the Commission to—
- (a) produce a written or electronic record relating to the licensed activities;
  - (b) provide a copy of a written or electronic record relating to the licensed activities;
  - (c) provide information about the licensed activities.
- (2) A request under subsection (1) may specify—
- (a) the form and manner in which a record or information is to be produced or provided;
  - (b) the period within which a record or information is to be produced or provided.
- (3) The Commission may retain anything provided under subsection (1).
- (4) The Commission may exercise a power under this section only for the purpose of—
- (a) determining whether activities have been carried on in purported reliance on the licence but not in accordance with a condition of the licence, or
  - (b) determining the suitability of the licensee to carry on the licensed activities.
- (5) A person commits an offence if he fails without reasonable excuse to comply with subsection (1).
- (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.