

2006 No. 3267

BETTING, GAMING AND LOTTERIES

**The Gambling (Personal Licences) (Modification of Part 5 of
the Gambling Act 2005) Regulations 2006**

<i>Made</i>	- - - -	<i>6th December 2006</i>
<i>Laid before Parliament</i>		<i>7th December 2006</i>
<i>Coming into force</i>	- -	<i>1st January 2007</i>

The Secretary of State makes the following Regulations in exercise of the powers conferred by section 128(1)(b) the Gambling Act 2005(a):

Citation and commencement

1.—(1) These Regulations may be cited as the Gambling (Personal Licences) (Modification of Part 5 of the Gambling Act 2005) Regulations 2006 and shall come into force on 1st January 2007.

Modification of Part 5 of the Gambling Act 2005

2.—(1) The provisions of Part 5 of the Gambling Act 2005 listed in Table 1 in the Schedule are not to apply to personal licences.

(2) The provisions of that Part listed in column 1 of Table 2 in the Schedule shall apply to personal licences, subject to the modifications specified in the corresponding entry in column 2 of that table.

Richard Caborn
Minister of State
Department for Culture, Media and Sport

6th December 2006

SCHEDULE

Regulation 2

Table 1

<i>Sections of the Gambling Act 2005 excluded from applying to personal licences</i>
Section 72 (Consideration of application: demand)
Section 80 (Requirement for personal licence)
Section 81 (Credit and inducements)
Sections 85 to 87 (Equipment, gaming machines and membership)
Sections 89 to 99 (Rules for particular kinds of licence)
Sections 102 and 103 (Change of corporate control and supplemental)
Sections 110 to 112 (Duration)
Section 123 (Levy)

Table 2

Modifications to Part 5 of the Gambling Act 2005

<i>Column 1 Provision</i>	<i>Column 2 Modification</i>
Section 66(1) (Form of licence)	To have effect as if paragraph (b) was omitted.
Section 67 (Remote gambling)	To have effect as if— <ul style="list-style-type: none"> (a) the following was substituted for subsection (1)— <p>“(1) A personal licence is a “remote personal licence” if it authorises an individual to perform functions which include the functions of a specified management office in connection with the provision of facilities for remote gambling.”;</p> (b) subsection (2) was omitted; and (c) the following was substituted for subsection (3)— <p>“(3) A personal licence must state whether it is a remote personal licence or not.”.</p>
Section 69(2) and (3) (Application)	To have effect as if <ul style="list-style-type: none"> (a) the following was substituted for paragraph (a) of subsection (2)— <p>“(a) specify — <ul style="list-style-type: none"> (i) any management office the performance of whose functions are to be authorised by the licence, and (ii) any operational function to be authorised by the licence.”; and </p> (b) paragraph (b) of subsection (3) was omitted.
Section 70 (Consideration of application: general principles)	To have effect as if— <ul style="list-style-type: none"> (a) in subsection (1), paragraphs (c) and (d) were omitted, (b) in subsection (2), the words “or of a person relevant to the application”, wherever they appear, were omitted, (c) subsections (3), (6), (8) and (10) were omitted, (d) in subsection (7), the words “or other person” were omitted, and (e) in subsection (9), paragraph (b) was omitted.

Table 2 (continued)

<i>Column 1</i> <i>Provision</i>	<i>Column 2</i> <i>Modification</i>
Section 71 (Consideration of application: criminal record)	To have effect as if— (a) in subsection (1), the words “or a person relevant to the application” were omitted, and (b) subsection (3) was omitted.
Section 73 (Procedure)	To have effect as if paragraph (b) in each of subsections (2) and (3) was omitted.
Section 75(2) (General conditions imposed by Commission)	To have effect as if, in paragraph (c), the words from “or of another person” to the end of the paragraph were omitted.
Section 79 (Scope of powers to attach conditions)	To have effect as if— (a) in paragraph (c) of subsection (3), the words from “or of another person” to the end of the paragraph were omitted, (b) subsections (4), (6) and (7) were omitted, and (c) in subsection (5), the words from “or of another person” to the end of the subsection were omitted.
Section 82 (Compliance with code of practice)	To have effect as if— (a) the following paragraph was substituted for paragraph (a) of subsection (2)— <p style="margin-left: 40px;">“(a) the reference to the licensee includes, where the licence authorises the performance of the functions of a management office, a reference to a person for whom the licensee is responsible.”; and</p> (b) the following subsections were inserted after subsection (3)— <p style="margin-left: 40px;">“(4) For the purposes of subsection (2)(a), the licensee is responsible for a person if—</p> <p style="margin-left: 80px;">(a) the licensee is required by the terms of his appointment, to take or share responsibility for the conduct of that person, and</p> <p style="margin-left: 80px;">(b) that person performs an operational function in connection with an activity performed in reliance on a relevant operating licence.</p> <p style="margin-left: 40px;">(5) In subsection (4), the reference to a relevant operating licence is to any operating licence in connection with which the licensee performs the functions authorised by his personal licence.”.</p>

Table 2 (continued)

<i>Column 1</i> <i>Provision</i>	<i>Column 2</i> <i>Modification</i>
Section 83 (Return of stakes to children)	<p>To have effect as if—</p> <p>(a) the following subsections were substituted for subsection (1)—</p> <p>“(1) This section applies to a personal licence which authorises the licensee to perform a specified operational function in connection with the provision of facilities for gambling under an operating licence.</p> <p>(1A) The personal licence shall by virtue of this section be subject to the condition that, if the licensee becomes aware that a child or young person is using or has used facilities for gambling provided in reliance on the operating licence, the licensee—</p> <p>(a) must return any money paid in respect of the use of those facilities (whether by way of fee, stake or otherwise) by the child or young person as soon as is reasonably practicable, and</p> <p>(b) may not give a prize to the child or young person.</p> <p>(1B) Subsection (1A) does not apply where the licensee does not have authority under the terms or conditions of his appointment to act in the way required by that subsection; but, in such a case, the licensee must take all reasonable steps to inform a person having the appropriate authority of the relevant matters relating to the child or young person referred to in that subsection.”;</p> <p>(b) in subsection (3) the words “The condition in subsection (1)” were omitted and replaced with “Subject to subsection (1B), the condition in subsection (1A)”;</p> <p>(c) subsection (4)(a) was omitted.</p>
Section 84(1) (Premises)	To have effect with the omission of paragraph (b).

Table 2 (continued)

<i>Column 1</i> <i>Provision</i>	<i>Column 2</i> <i>Modification</i>
Section 88 (Information)	<p>To have effect as if—</p> <p>(a) the following was substituted for paragraph (a) of subsection (2)—</p> <p style="padding-left: 40px;">“(a) relate to information about the use made of facilities provided in accordance with a relevant operating licence;”;</p> <p>(b) the following subsection was inserted after subsection (2)—</p> <p style="padding-left: 40px;">“(2A) In subsection (2)(a), the reference to a relevant operating licence is to any operating licence in connection with which the licensee performs the functions authorised by his personal licence.”.</p>
Section 114 (Lapse)	To have effect with the omission of subsection (2).
Section 116 (Review)	<p>To have effect as if the following were substituted for subsections (2) and (3)—</p> <p style="padding-left: 40px;">“(2) The Commission may review any matter connected with the performance of the functions authorised by the licence if the Commission—</p> <p style="padding-left: 80px;">(a) has reason to suspect that the functions have not been performed in accordance with a condition of the licence,</p> <p style="padding-left: 80px;">(b) believes that the licensee has acquired a conviction of a kind mentioned in section 71(1), or</p> <p style="padding-left: 80px;">(c) for any reason—</p> <p style="padding-left: 120px;">(i) suspects that the licensee may be unsuitable to carry on the licensed activities, or</p> <p style="padding-left: 120px;">(ii) thinks that a review would be appropriate.</p> <p style="padding-left: 40px;">(3) For the purposes of subsection (2)(c) a reason—</p> <p style="padding-left: 80px;">(a) may, in particular, relate to the receipt of a complaint about the performance of the functions authorised by the licence;</p> <p style="padding-left: 80px;">(b) need not relate to any suspicion or belief about the performance of those functions.”.</p>
Section 117(1) (Regulatory powers)	To have effect with the omission of paragraph (d).

Table 2 (continued)

<i>Column 1 Provision</i>	<i>Column 2 Modification</i>
Section 119 (Revocation)	<p>To have effect as if the following was substituted for subsection (3)—</p> <p>“(3) The Commission shall revoke a personal licence if the licensee fails to pay any fee payable in accordance with section 132; but the Commission may disapply this subsection if it thinks that a failure to pay is attributable to administrative error.”</p>
Section 120(3) (Conditions for suspension or revocation)	<p>To have effect as if—</p> <p>(a) in paragraphs (a) and (c), the words “or of any person who exercises a function in connection with or is interested in the licensed activities” were omitted, and</p> <p>(b) in paragraph (b), the words “, or of any person who exercises a function in connection with the licensed activities,” were omitted.</p>
Section 126(1) (Interpretation)	<p>To have effect as if the following was substituted for the definition of “licensed activities”—</p> <p>““licensed activities” in relation to a personal licence means the functions whose performance is authorised by the licence, and”.</p>

EXPLANATORY NOTE

(This note is not part of the Order)

Part 6 of the Gambling Act 2005 (“the Act”) establishes a regime for licensing personnel working in the gambling industry (personal licences), to be regulated by the Gambling Commission. Section 128 of the Act provides that the provisions of Part 5 of the Act, in relation to operating licences, are to apply to a personal licence as they apply to an operating licence, subject to certain exceptions. One of those exceptions is where Part 6 of the Act expressly modifies or excludes a provision of Part 5. A second exception is where the Secretary of State makes specific modifications or exclusions by means of secondary legislation. These Regulations therefore specify a number of exclusions and modifications to Part 5 of the Act, as it is to apply to personal licences.

Table 1 in the Schedule lists those provisions of Part 5 of the Act which do not apply to personal licences.

Table 2 in the Schedule modifies certain provisions of Part 5 of the Act, as they apply to personal licences.

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