



# Gaming Act 1968

## 1968 CHAPTER 65

### PART III

#### GAMING BY MEANS OF MACHINES

##### *Supplementary provisions*

#### **36 Removal of money from machines**

- (1) Where a machine to which this Part of this Act applies is installed on premises in respect of which—
- (a) a licence under this Act is for the time being in force, or
  - (b) a club or a miners' welfare institute is for the time being registered under Part II or under this Part of this Act,

no person who is not an authorised person for the purposes of this section shall remove from the machine any money, other than any money delivered by the machine as, or as part of, a prize in respect of a game played by means of the machine.

- (2) For the purposes of this section the following are authorised persons in relation to a machine according to the premises on which it is installed, that is to say—
- (a) in the case of premises in respect of which a licence under this Act is for the time being in force, the holder of the licence and any person employed by him in connection with the premises;
  - (b) in the case of premises in respect of which a club is for the time being registered under Part II or under this Part of this Act, any officer or member of the club and any person employed by or on behalf of the members of the club in connection with the premises ;
  - (c) in the case of premises in respect of which a miners' welfare institute is for the time being so registered, any officer of the institute, any person for the time being enrolled as a member of the institute, and any person employed in connection with the premises by or on behalf of the persons so enrolled.

### **37 Regulations with respect to machines and records**

- (1) The Secretary of State may by regulations—
- (a) prohibit, or impose such restrictions as he may consider necessary or expedient on, the sale, supply, maintenance or use of machines to which this Part of this Act applies which are of a description specified in the regulations;
  - (b) prohibit, or impose such restrictions as he may consider necessary or expedient on, the sale or supply of tokens of a description so specified for use in machines to which this Part of this Act applies ;
  - (c) impose special requirements in respect of machines to which this Part of this Act applies which are installed, or are sold or supplied for the purpose of being installed, on any such premises as are mentioned in section 36(1) of this Act.
- (2) In respect of machines to which this Part of this Act applies which are installed on any such premises, regulations made by the Secretary of State may—
- (a) in the case of premises in respect of which a licence under this Act is for the time being in force, require the holder of the licence, or
  - (b) in the case of premises in respect of which a club or a miners' welfare institute is for the time being registered under Part II or under this Part of this Act, require the officers of the club or institute,
- to make, and to retain during a prescribed period, such records and accounts as may be prescribed with respect to matters to which this subsection applies, and to provide such verification of those records and accounts as may be prescribed; and the regulations may require the holder of the licence or the officers of the club or institute, as the case may be, to send to the Board and to the chief officer of police (or, in Scotland, the chief constable) for the police area in which the premises are situated an annual statement containing such particulars as may be prescribed with respect to matters to which this subsection applies.
- (3) The matters to which subsection (2) of this section applies, in relation to a machine, are—
- (a) any payments made in respect of the machine, whether by way of rent, maintenance charges or otherwise;
  - (b) any money or tokens inserted into the machine otherwise than as charges for play; and
  - (c) any money or tokens removed from the machine, other than money or tokens delivered by the machine as prizes.

### **38 Offences under Part III**

- (1) Any person who contravenes subsection (1) or subsection (5) of section 27 of this Act shall be guilty of an offence.
- (2) Any person who sells, supplies or undertakes to maintain a machine in contravention of any regulations made under subsection (1) of section 28 of this Act, or who contravenes subsection (2) of that section, shall be guilty of an offence.
- (3) Subject to subsection (11) of this section, where any of the provisions of section 31 of this Act, or of any regulations made in pursuance of section 37(1) of this Act in so far as they relate to the use of machines, or of any regulations made in pursuance of section 37(2) of this Act, is contravened in relation to any premises—
  - (a) the holder of the licence, if they are premises in respect of which a licence under this Act is for the time being in force, or

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*Status: This is the original version (as it was originally enacted).*

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- (b) every officer of the club or institute, if they are premises in respect of which a club or a miners' welfare institute is for the time being registered under Part II or under this Part of this Act,  
shall be guilty of an offence; and where, in the case of any premises falling within subsection (1)(b) of section 34 of this Act, any of the provisions of that section is contravened, the holder of the licence in respect of the premises shall be guilty of an offence.
- (4) Without prejudice to the last preceding subsection, but subject to subsection (11) of this section, where any such provisions as are mentioned in the last preceding subsection are contravened in relation to a machine on any premises, any person who allowed the machine to be on the premises shall be guilty of an offence.
- (5) Where any of the provisions of section 33 of this Act or of any regulations made under that section is contravened in relation to an entertainment, every person concerned in the conduct of the entertainment shall be guilty of an offence unless he proves that the contravention occurred without his consent or connivance and that he exercised all due diligence to prevent it.
- (6) Subject to subsection (11) of this section, where any of the provisions of section 34 of this Act is contravened, otherwise than in respect of premises falling within paragraph (b) of subsection (1) of that section, or where, in a case falling within paragraph (a) of that subsection, a condition to which the permit is subject is contravened.—
- (a) the holder of the permit, in a case falling within paragraph (a) or paragraph (c) of that subsection, or
- (b) the person in charge of the machine, in a case falling within paragraph (d) of that subsection,
- shall be guilty of an offence.
- (7) Where a machine to which this Part of this Act applies is used for gaming on any premises, or in any vessel or vehicle, in contravention of section 35 of this Act, any person who allowed the machine to be on the premises or in the vessel or vehicle shall be guilty of an offence unless he proves that the contravention occurred without his consent or connivance and that he exercised all due diligence to prevent it.
- (8) Any person who contravenes section 36 of this Act shall be guilty of an offence.
- (9) Any person who—
- (a) sells, supplies or maintains a machine, or sells or supplies any token, in contravention of any regulations made under section 37(1) of this Act, or
- (b) on any premises other than premises falling within paragraph (a) or paragraph (b) of subsection (3) of this section, causes or permits a machine to be used in contravention of any such regulations,
- shall be guilty of an offence.
- (10) Where any of the provisions of section 33, section 34 or section 35 of this Act is contravened in relation to a machine, then (without prejudice to any liability of any person under the preceding provisions of this section) any person who, knowing or having reasonable cause to suspect that the provisions in question would be contravened in relation to the machine, sold or supplied the machine shall—
- (a) in the case of a contravention of section 33 or section 35 of this Act, be guilty of an offence under this paragraph, or

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- (b) in the case of a contravention of section 34 of this Act, be guilty of an offence under this paragraph.
- (11) Where a person is charged with an offence under subsection (3), subsection (4) or subsection (6) of this section in respect of a contravention of any such provisions as are mentioned in any of those subsections, it shall be a defence for him to prove—
- (a) that the contravention occurred without his knowledge, and
  - (b) that he exercised all such care as was reasonable in the circumstances to secure that the provisions in question would not be contravened.
- (12) Section 29 of this Act shall have effect for the purposes of subsections (1) and (2) of this section as it has effect for the purposes of sections 27 and 28 of this Act, and any reference in those subsections to contravening any provisions of those sections or any regulations made thereunder shall be construed accordingly.

### **39 Penalties under Part III**

- (1) Any person guilty of an offence under section 38 of this Act shall be liable—
- (a) on summary conviction, to a fine not exceeding £400;
  - (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both.
- (2) Where a person is convicted of an offence under subsection (6) of section 38 of this Act in respect of a contravention of a condition to which a permit under section 34 of this Act is subject, the court by which he is convicted may, if it thinks fit, make an order cancelling the permit.
- (3) An order under subsection (2) of this section made by a court in England or Wales—
- (a) shall not take effect until the end of the period within which the person on whose conviction the order was made can appeal against the conviction or against the making of the order, and
  - (b) if he so appeals, shall not take effect until the appeal has been determined or abandoned.
- (4) The holder of a permit in respect of which an order under subsection (2) of this section is made by a court in Scotland may, without prejudice to any other form of appeal under any rule of law, appeal against the order in the same manner as against a conviction, and a permit shall not be cancelled under an order so made—
- (a) until the end of the period of fourteen days commencing with the date on which the order was made, nor
  - (b) if an appeal against the order or the conviction which gave rise thereto is taken within the said period, until the date when that appeal is determined or abandoned or deemed to have been abandoned.