



# Gambling Act 2005

## 2005 CHAPTER 19

### PART 17

#### LEGALITY AND ENFORCEABILITY OF GAMBLING CONTRACTS

#### **334 Repeal of provisions preventing enforcement**

- (1) The following shall cease to have effect—
- (a) section 1 of the Gaming Act 1710 (c. 19) (voiding of security for winnings or for repayment of gaming loan, &c.),
  - (b) remaining provisions of the Gaming Act 1835 (c. 41) (security deemed given for illegal consideration),
  - (c) section 18 of the Gaming Act 1845 (c. 109) (voiding of gaming contracts),
  - (d) section 1 of the Gaming Act 1892 (c. 9) (voiding of promise to repay), and
  - (e) in section 412 of the Financial Services and Markets Act 2000 (c. 8) (gaming contracts)—
    - (i) in subsection (1)(a), the words “section 18 of the Gaming Act 1845, section 1 of the Gaming Act 1892 or”, and
    - (ii) subsection (1)(b).
- (2) The repeals in subsection (1) do not permit enforcement of a right which is created, or which emanates from an agreement made, before this section comes into force.

#### **335 Enforceability of gambling contracts**

- (1) The fact that a contract relates to gambling shall not prevent its enforcement.
- (2) Subsection (1) is without prejudice to any rule of law preventing the enforcement of a contract on the grounds of unlawfulness (other than a rule relating specifically to gambling).

**336 Power of Gambling Commission to void bet**

- (1) The Commission may make an order under this subsection in relation to a bet accepted by or through the holder of—
  - (a) a general betting operating licence,
  - (b) a pool betting operating licence, or
  - (c) a betting intermediary operating licence.
- (2) Where the Commission makes an order under subsection (1) in relation to a bet—
  - (a) any contract or other arrangement in relation to the bet is void, and
  - (b) any money paid in relation to the bet (whether by way of stake, winnings, commission or otherwise) shall be repaid to the person who paid it, and repayment may be enforced as a debt due to that person.
- (3) The Commission may make an order under subsection (1) in relation to a bet only if satisfied that the bet was substantially unfair.
- (4) In considering whether a bet was unfair the Commission shall, in particular, take account of any of the following that applies—
  - (a) the fact that either party to the bet supplied insufficient, false or misleading information in connection with it,
  - (b) the fact that either party to the bet believed or ought to have believed that a race, competition or other event or process to which the bet related was or would be conducted in contravention of industry rules,
  - (c) the fact that either party to the bet believed or ought to have believed that an offence under section 42 had been or was likely to be committed in respect of anything to which the bet related, and
  - (d) the fact that either party to the bet was convicted of an offence under section 42 in relation to the bet.
- (5) An order under subsection (1) may be made in relation to a bet only during the period of six months beginning with the day on which the result of the bet is determined.
- (6) But subsection (5) shall not apply to an order made taking account of the fact that a party to the bet was convicted of an offence under section 42 in relation to it.

**337 Section 336: supplementary**

- (1) Where the Commission makes an order under section 336(1) in relation to a bet a party to the bet or to any contract or other arrangement in relation to the bet may appeal to the Gambling Appeals Tribunal; and the following provisions of Part 7 shall have effect (with any necessary modifications) in relation to an appeal under this section as they have effect in relation to an appeal under that Part—
  - (a) section 142,
  - (b) section 143,
  - (c) section 144,
  - (d) section 145,
  - (e) section 146,
  - (f) section 147, and
  - (g) section 149.

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

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- (2) The Commission may make an order under section 336(1) in relation to the whole, or any part or aspect of, a betting transaction.
- (3) An order under section 336(1) may make incidental provision; in particular, an order may make provision about—
  - (a) the consequences of the order for bets connected with the bet which becomes void under the order;
  - (b) the consequences of the order for other parts or aspects of a betting transaction one part or aspect of which becomes void under the order.
- (4) For the purposes of considering whether to make an order under section 336(1) in respect of a bet the Commission—
  - (a) may require a person by or through whom the bet is made or accepted to provide information or documents in relation to it, and
  - (b) may take into account information received from any other person.
- (5) A person commits an offence if without reasonable excuse he fails to comply with a requirement under subsection (4).
- (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.
- (7) In section 336(4)(b) “industry rules” means rules established by an organisation having, by virtue of an agreement, instrument or enactment, responsibility for the conduct of races, competitions or other events or processes.

### **338 Interim moratorium**

- (1) Where the Commission has reason to suspect that it may wish to make an order under section 336(1) in relation to a bet, the Commission may make an order under this subsection in relation to the bet.
- (2) While an order under subsection (1) has effect in relation to a bet, an obligation to pay money in relation to the bet (whether by way of stake, winnings, commission or otherwise) shall have no effect.
- (3) An order under subsection (1) shall have effect for the period of 14 days beginning with the day on which the order is made (subject to extension under subsection (4) and without prejudice to the making of a new order).
- (4) The Commission may by order extend the period for which an order under subsection (1) has effect; and—
  - (a) an order under this subsection may extend that period by the addition of not more than 14 days, and
  - (b) more than one order may be made under this subsection in relation to a bet.
- (5) The Commission may cancel an order under subsection (1) (without prejudice to the making of a new order).
- (6) The Commission shall cancel an order under subsection (1) as soon as is reasonably practicable after it ceases to entertain the suspicion mentioned in that subsection.
- (7) The Commission shall not be liable to make any payment on account only of the fact that it—

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- (a) has made an order under subsection (1), and
  - (b) not made a subsequent order under section 336(1).
- (8) But subsection (7) is without prejudice to any power of a court in legal proceedings (whether for tort or otherwise).