



# Gaming Act 1968 (repealed)

## 1968 CHAPTER 65

### PART III

#### GAMING BY MEANS OF MACHINES

##### *Introductory*

#### **26 Scope of Part III.**

- (1) This Part of this Act applies to any machine which—
  - (a) is constructed or adapted for playing a game of chance by means of the machine, and
  - (b) has a slot or other aperture for the insertion of money or money's worth in the form of cash or tokens.
- (2) In the preceding subsection the reference to playing a game of chance by means of a machine includes playing a game of chance partly by means of a machine and partly by other means if (but only if) the element of chance in the game is provided by means of the machine.
- (3) In this Part of this Act “charge for play” means an amount paid in money or money's worth by or on behalf of a player in order to play one or more games by means of a machine to which this Part of this Act applies.

##### *Sale, supply and maintenance of machines*

#### **27 General restrictions.**

- (1) Except as provided by subsections (2) to (4) of this section, no person shall, whether as principal or as a servant or agent, sell or supply a machine to which this Part of this Act applies unless—
  - (a) he is the holder of a certificate issued for the purposes of this subsection by the Board which is for the time being in force, or of a permit in respect of that

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- machine which has been granted for the purposes of this subsection by the Board and is for the time being in force, or
- (b) where he sells or supplies the machine as the servant or agent of another person, that other person is the holder of such a certificate or permit.
- (2) The preceding subsection does not apply—
- (a) to the sale of machines of any description to a person who carries on a business which consists of or includes selling or supplying machines of that description;
- (b) to the sale or supply of a machine to a person buying or agreeing or proposing to buy it under a credit-sale agreement, or to the supply of a machine to a person as being a person hiring or agreeing or proposing to hire it under a hire-purchase agreement, where (in any such case) the person who is or is to be the seller or owner in relation to the agreement has at no time had possession of the machine and became or becomes the owner of it only for the purpose of entering into the agreement;
- (c) to the sale or supply of a machine as scrap; or
- (d) to any transaction whereby the premises in which a machine to which this Part of this Act applies is installed are sold or let and the machine is sold or supplied to the purchaser or tenant as part of the fixtures and fittings of the premises.
- (3) Subject to the next following subsection, subsection (1) of this section does not apply to the sale or supply of a machine for use exclusively at a travelling showmen's pleasure fair or for use exclusively on premises used or to be used—
- (a) wholly or mainly for the provision of amusements by means of machines to which this Part of this Act applies, or
- (b) wholly or mainly for the purposes of a pleasure fair consisting wholly or mainly of amusements, or
- (c) as a pleasure pier.
- (4) The Secretary of State may by order direct that subsection (3) of this section shall cease to have effect, or shall have effect subject to such exceptions as may be specified in the order.
- (5) No person acting as principal shall—
- (a) undertake for valuable consideration to maintain the mechanism of a machine to which this Part of this Act applies, or
- (b) cause or permit another person to enter into such an undertaking on his behalf, unless the person so acting as principal is the holder of a certificate issued for the purposes of this subsection by the Board which is for the time being in force, or of a permit in respect of that machine which has been granted for the purposes of this subsection by the Board and is for the time being in force.
- (6) The provisions of Schedule 6 to this Act shall have effect with respect to the issue of certificates, and the grant of permits, for the purposes of subsections (1) and (5) of this section.
- (7) In this section “credit-sale agreement” means an agreement for the sale of goods under which the whole or part of the purchase price is payable by instalments, and “hire-purchase agreement” has the meaning assigned to it by section 1 of the <sup>M1</sup>Hire-Purchase Act 1965, or, in the application of this section to Scotland, by section 1 of the <sup>M2</sup>Hire-Purchase (Scotland) Act 1965.

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#### **Marginal Citations**

**M1** 1965 c. 66.

**M2** 1965 c. 67.

### **28 Restrictions as to terms and conditions.**

- (1) The Secretary of State may by regulations impose such restrictions as he may consider necessary or expedient with respect to the terms and conditions on which machines to which this Part of this Act applies may be sold or supplied or undertaken to be maintained.
- (2) Without prejudice to any restrictions imposed by regulations under the preceding subsection, but subject to subsection (3) of this section, no person shall sell or supply, or shall undertake to maintain, a machine to which this Part of this Act applies on terms and conditions which are in any way dependent upon, or provide for any calculation by reference to, the extent to which, or the manner in which, that machine, or any other machine or equipment (whether a machine to which this Part of this Act applies or not), is used.
- (3) Subsection (2) of this section shall not have effect in relation to the sale or supply of a machine for use exclusively at a travelling showmen's pleasure fair or for use exclusively on premises used or to be used as mentioned in paragraph (a), paragraph (b) or paragraph (c) of section 27(3) of this Act, or in relation to an undertaking to maintain a machine at any such pleasure fair or on any such premises:  
  
Provided that the Secretary of State may by order direct that this subsection shall cease to have effect, or shall have effect subject to such exceptions as may be specified in the order.
- (4) In this section "terms and conditions" includes any terms and conditions as to price, rent or any other payment.

### **29 Application of ss. 27 and 28 to concessionaires.**

For the purposes of sections 27 and 28 of this Act a person (other than a travelling showman) who, in pursuance of any concession, licence or other right granted to him, places a machine, or causes a machine to be placed, on premises which are not in his occupation shall be treated as supplying the machine at the time when it is placed on those premises.

*Use of machines for gaming on premises licensed or registered under this Act*

### **30 Registration under Part III.**

The provisions of Schedule 7 to this Act shall have effect with respect to the registration of clubs and miners' welfare institutes under this Part of this Act in England and Wales, and the provisions of Schedule 8 to this Act shall have effect with respect to the registration of clubs and miners' welfare institutes under this Part of this Act in Scotland.

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### **31 Use of machines by virtue of licence or registration.**

- (1) Subject to any direction given under section 32 of this Act, the following provisions of this section shall have effect where any machine to which this Part of this Act applies is used for gaming on any 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.

[<sup>F1</sup>(2) The maximum number of machines to which this Part of this Act applies which may be made available for gaming shall be—

- (a) 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, three,
- (b) in the case of bingo club premises (as defined by section 20 of this Act), four, and
- (c) in the case of any other premises in respect of which a licence under this Act is for the time being in force, six.]

(3) The charge for play for playing a game once by means of any such machine on the premises shall be a coin or coins inserted in the machine of an amount not exceeding (or, if more than one, not in the aggregate exceeding) one shilling or such other sum as may be specified in an order made by the Secretary of State for the purposes of this subsection.

(4) In respect of any one game played by means of such a machine on the premises no player or person claiming under a player shall receive, or shall be entitled to receive, any article, benefit or advantage other than a coin or coins delivered by the machine.

(5) If an amount is prescribed for the purposes of this subsection, the coins delivered by any such machine on the premises as a prize in respect of any one game played by means of the machine shall not in the aggregate exceed the amount so prescribed.

(6) If a percentage is prescribed for the purposes of this subsection, then on any premises in respect of which a licence under this Act is for the time being in force there shall not be any such machine which, in accordance with the way in which the machine is constructed, adapted or for the time being regulated, is designed to pay out less than that percentage of the aggregate value of the charges for play inserted in the machine.

(7) There shall be displayed on any such machine on any such premises as are mentioned in subsection (1) of this section—

- (a) a statement specifying the value of the prize (or, if there are different prizes, the value of each prize) which can be won by playing a game once by means of the machine;
- (b) if there are any special circumstances in which that prize (or, as the case may be, those prizes) cannot be won, a statement of those circumstances; and
- (c) a statement of a percentage as being the percentage or minimum percentage of the aggregate value of the charges for play inserted in the machine which the machine is designed to pay out;

and, if the manner in which those statements are to be so displayed is prescribed, they shall be displayed in that manner.

(8) No such machine shall be used for gaming on the premises at any time when the public have access to the premises, whether on payment or otherwise.

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#### Textual Amendments

F1 S. 31(2) substituted (20.6.1996) by S.I. 1996/1359, art. 5

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

C1 S. 31(3): sum of 30p specified (1.10.1997) for purposes of s. 31(3) by S.I. 1997/2079, art. 2 (which S.I. was revoked (1.10.1998) by S.I. 1998/2152, art. 3).

### 32 Power for licensing authority to authorise more than two machines.

- (1) In connection with any application for the grant or renewal of a licence under this Act the applicant may request the licensing authority to give a direction under this section.
- (2) Where such a request is made, and the licensing authority grant or renew the licence, and, on doing so, give a direction under this section specifying a maximum number of machines, then, in relation to any time when the number of machines to which this Part of this Act applies which are available for gaming on the premises does not exceed the number so specified,—
  - (a) the provisions of subsections (2) to (7) of section 31 of this Act shall not have effect in relation to the premises to which the licence relates, but
  - (b) the provisions of section 34 [<sup>F2</sup>(5E)] of this Act shall have effect in relation to those premises.

#### Textual Amendments

F2 Words in s. 32(2)(b) inserted (20.6.1996) by S.I. 1996/1359, art. 7(2)

*Use of machines for gaming by way of amusement with prizes*

### 33 Use of machines at non-commercial entertainments.

- (1) This section applies to any entertainment which takes place elsewhere than 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,and which is an entertainment of any of the following kinds, that is to say, bazaars, sales of work, fetes, dinners, dances, sporting or athletic events and other entertainments of a similar character, whether limited to one day or extending over two or more days.
- [<sup>F3</sup>(2) Where a machine to which this Part of this Act applies is used for gaming as an incident of any such entertainment, the whole proceeds of the entertainment, after deducting the expenses of the entertainment, shall be devoted to purposes other than private gain.
- (2A) Where a machine to which this Part of this Act applies is used for gaming as an incident of an entertainment to which this section applies, the opportunity to win prizes by means of the machine, or that opportunity together with any other facilities for participating in lotteries or gaming shall not be the only, or the only substantial, inducement to persons to attend the entertainment.]

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- (5) The Secretary of State may by regulations impose such restrictions (in addition to those specified in subsections (2) [<sup>F4</sup>and (2A)] of this section) as he may consider necessary or expedient with respect to the use of any machine to which this Part of this Act applies for gaming as an incident of an entertainment to which this section applies.
- (6) ..... <sup>F5</sup>

**Textual Amendments**

**F3** S. 33(2), (2A) substituted for s. 33(2)-(4) by Lotteries Act 1975 (c. 58), **Sch. 4 para. 6(1)**

**F4** Word substituted by Lotteries Act 1975 (c. 58), **Sch. 4 para. 6(2)**

**F5** S. 33(6) repealed by Lotteries and Amusements Act 1976 (c. 32), **Sch. 5**

**34 Other uses of machines for amusement purposes.**

- (1) The conditions specified in [<sup>F6</sup>subsections (2) to (3) and (5) of this section] shall be observed where a machine to which this Part of this Act applies is used for gaming—
  - [<sup>F7</sup>(a) on any amusement machine premises in respect of which there is for the time being in force a permit under this section which—
    - (i) is granted by the authority mentioned in paragraph 1(b) or, as the case may be, (d) of Schedule 9 to this Act, and
    - (ii) is expressed to be granted for the purposes of this subsection,
  - (aa) on any premises, other than amusement machine premises, in respect of which there is for the time being in force a permit under this section which is granted as mentioned in paragraph (a)(i) of this subsection,]
  - <sup>F8</sup>(b) .....
  - (c) on any premises used wholly or mainly for the purpose of a pleasure fair consisting wholly or mainly of amusements provided otherwise than by means of machines to which this Part of this Act applies, being premises in respect of which a permit granted under [<sup>F9</sup>section 16 of the <sup>M3</sup>Lotteries and Amusements Act 1976] is for the time being in force, or
  - (d) at a travelling showmen’s pleasure fair.
- (2) The charge for play for playing a game once by means of the machine shall be one or more coins or tokens inserted in the machine of an amount or value not exceeding (or, if more than one, not in the aggregate exceeding) one shilling.
- (3) Except as provided by subsections (4) and (9) of this section, in respect of any one game played by means of the machine no player or person claiming under a player shall receive, or shall be entitled to receive, any article, benefit or advantage other than one (and only one) of the following, that is to say—
  - (a) a money prize not exceeding two shillings or a token which is, or two of more tokens which in the aggregate are, exchangeable only for such a money prize;
  - (b) a non-monetary prize or prizes of a value or aggregate value not exceeding five shillings or a token exchangeable only for such a non-monetary prize or such non-monetary prizes;
  - (c) a money prize not exceeding two shillings together with a non-monetary prize of a value which does not exceed five shillings less the amount of the money prize, or a token exchangeable only for such a combination of a money prize and a non-monetary prize;

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- (d) one or more tokens which can be used for playing one or more further games by means of the machine and, in so far as they are not so used, can be exchanged for a non-monetary prize or non-monetary prizes at the appropriate rate.
- (4) The condition specified in subsection (3) of this section shall not be taken to be contravened by reason only that a player, after inserting in the machine an amount permitted in accordance with subsection (2) of this section and playing a game successfully, is afforded by the automatic action of the machine an opportunity to play one or more further games without inserting any further coin or token in the machine, if in respect of all those games—
- (a) he does not receive, and is not entitled to receive, any article other than a money prize or money prizes of an amount or aggregate amount not exceeding two shillings, and
  - (b) he does not receive, and is not entitled to receive, any other benefit or advantage apart from the opportunity to play the further game or games.
- (5) In the case of a travelling showmen's pleasure fair the opportunity to win prizes by means of amusements which constitute gaming (whether by the use of machines to which this Part of this Act applies or otherwise) shall not constitute the only, or the only substantial, inducement to persons to attend the fair.
- [<sup>F10</sup>(5A) The conditions specified in subsections (5B) and (5C) of this section shall be observed where a machine to which this Part of this Act applies is used for gaming on any premises in respect of which a betting office licence is for the time being in force.
- (5B) The charge for play for playing a game once by means of the machine shall be the same as that under subsection (2) of this section.
- (5C) No player or person claiming under a player shall receive, or shall be entitled to receive, in respect of any one game played by means of the machine, any article, benefit or advantage other than a money prize not exceeding £10 delivered by the machine.
- (5D) The condition specified in subsection (5C) of this section shall not be taken to be contravened by reason only that a player, after inserting in the machine an amount permitted in accordance with subsection (5B) of this section and playing a game successfully, is afforded by the automatic action of the machine an opportunity to play one or more further games without inserting any further coin in the machine, if in respect of all those games—
- (a) he does not receive, and is not entitled to receive, any article other than a money prize of an amount or aggregate amount not exceeding £10, and
  - (b) he does not receive, and is not entitled to receive, any other benefit or advantage apart from the opportunity to play the further game or games.
- (5E) Where a machine to which this Part of this Act applies is used for gaming—
- (a) on any amusement machine premises in respect of which there is for the time being in force a permit under this section which—
    - (i) is granted by the authority mentioned in paragraph 1(b) or, as the case may be, (d) of Schedule 9 to this Act, and
    - (ii) is expressed to be granted for the purposes of this subsection,
  - (b) on any premises in respect of which there is for the time being in force a permit under this section which is granted by the authority mentioned in paragraph 1(a) or, as the case may be, (c) of Schedule 9 to this Act, or

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- (c) on any premises in respect of which a licence under this Act and a direction given under section 32 of this Act are for the time being in force, where, by virtue of that direction, the provisions of this subsection have effect in relation to the premises,  
either the conditions specified in subsections (2) to (3) and (5) of this section or the conditions specified in subsections (5B) and (5C) of this section shall be observed.]
- (6) The provisions of Schedule 9 to this Act shall have effect with respect to the grant and renewal of permits for the purposes of this section.
- (7) No permit for the purposes of this section shall be granted in respect of any premises where a licence under this Act is for the time being in force in respect of them or where a club or a miners' welfare institute is for the time being registered in respect of them under Part II of this Act; and, where such a licence is granted or a club or a miners' welfare institute is so registered in respect of any premises, and a permit granted for the purposes of this section is then in force in respect of those premises, the permit shall thereupon cease to have effect.
- [<sup>F11</sup>(7A) In subsections (1) and (5E) of this section, references to amusement machine premises are to premises used wholly or mainly for the provision of amusements by means of machines to which this Part of this Act applies.]
- (8) In this section “non-monetary prize” means a prize which does not consist of or include any money and does not consist of or include any token which can be exchanged for money or money's worth or used for playing a game by means of the machine; and for the purposes of subsection (3)(d) of this section a token or tokens shall be taken to be exchanged for a non-monetary prize or prizes at the appropriate rate if either—
- the value or aggregate value of the prize or prizes does not exceed five shillings and the token or tokens exchanged represent the maximum number of tokens which can be won by playing a game once by means of the machine, or
  - in any other case, the value or aggregate value of the prize or prizes does not exceed five shillings and bears to five shillings a proportion not exceeding that which the number of tokens exchanged bears to the maximum number of tokens which can be won by playing a game once by means of the machine.
- (9) The Secretary of State may by order direct that any provision of this section which is specified in the order and which specifies a sum shall have effect as if, for that sum, there were substituted such other sum as may be specified in the order.

#### Textual Amendments

- F6** Words in s. 34(1) substituted (20.6.1996) by S.I. 1996/1359, art. 6(2)(a)
- F7** S. 34(1)(a)(aa) substituted (20.6.1996) for s. 34(1)(a) by S.I. 1996/1359, art. 6(2)(b)
- F8** S. 34(1)(b) repealed (20.6.1996) by S.I. 1996/1359, art. 6(2)(c)
- F9** Words substituted by Lotteries and Amusements Act 1976 (c. 32), Sch. 4 para. 2
- F10** S. 34(5A)-(5E) inserted (20.6.1996) by S.I. 1996/1359, art. 6(3)
- F11** S. 34(7A) inserted (20.6.1996) by S.I. 1996/1359, art. 6(4)

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

- C2** S. 34(2) has effect (1.10.1997) as if, for the sum specified, there were substituted the sum of 30p by virtue of S.I. 1997/2079, art. 3, Sch.
- C3** S. 34(3)(a) has effect (1.10.1997) as if, for the sum specified, there were substituted the sum of £5 by virtue of S.I. 1997/2079, art. 3, Sch.



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- C4** S. 34(3)(b) has effect (1.10.1995) as if, for the sum specified, there were substituted the sum of £8 by virtue of (E.W.) S.I. 1995/2288, art. 3, Sch. and (S.) S.I. 1995/2360, art. 3, Sch.
- C5** S. 34(3)(c) has effect (1.10.1997) as if, for the first sum specified, there were substituted the sum of £5 by virtue of S.I. 1997/2079, art. 3, Sch. and S. 34(3)(c) has effect (1.10.1995) as if, for the second sum specified, there were substituted the sum of £8 by virtue of (E.W.) S.I. 1995/2288, art. 3, Sch. and (S.) S.I. 1995/2360, art. 3, Sch.
- C6** S. 34(4)(a) has effect (1.10.1997) as if, for the sum specified, there were substituted the sum of £5 by virtue of S.I. 1997/2079, art. 3, Sch.
- C7** S. 34(5C) has effect (1.10.1998) as if, for the sum specified, there were substituted the sum of £15 by virtue of S.I. 1998/2152, art. 3 (which art. 3 was revoked (1.1.2002) by S.I. 2001/3971, art. 3)
- C8** S. 34(5D) has effect (1.10.1998) as if, for the sum specified, there were substituted the sum of £15 by virtue of S.I. 1998/2152, art. 3 (which art. 3 was revoked (1.1.2002) by S.I. 2001/3971, art. 3)
- C9** S. 34(8)(a) has effect (1.10.1995) as if, for the sum specified, there were substituted the sum of £8 by virtue of (E.W.) S.I. 1995/2288, art. 3, Sch. and (S.) S.I. 1995/2360, art. 3, Sch.
- C10** S. 34(8)(b) has effect (1.10.1995) as if, for the sum specified (in two places), there were substituted the sum of £8 (in both places) by virtue of (E.W.) S.I. 1995/2288, art. 3, Sch. and (S.) S.I. 1995/2360, art. 3, Sch.

#### Marginal Citations

**M3** 1976 c. 32.

### *General restriction on other gaming by means of machines*

#### **35 Use of machines not falling within ss. 31 to 34.**

No machine to which this Part of this Act applies shall be used for gaming except—

- (a) on premises in respect of which a licence under this Act is for the time being in force, or 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, or
- (b) as an incident of an entertainment to which section 33 of this Act applies, or
- [<sup>F12</sup>(c) as mentioned in section 34(1)(a), (aa), (c) or (d), (5A) or (5E)(a), (b) or (c) of this Act.]

#### Textual Amendments

**F12** S. 35(c) substituted (20.6.1996) by S.I. 1996/1359, art. 7(3)

### *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.

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- (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.

*Status: Point in time view as at 01/10/1997.*

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### 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
  - (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; <sup>F13</sup>and where subsection (5E) of section 34 of this Act is contravened in relation to premises falling within paragraph (c) of that subsection], 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 <sup>F14</sup>subsection (1)] of section 34 of this Act is contravened <sup>F15</sup>. . . or where, in a case falling within <sup>F16</sup>paragraph (aa)] 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) <sup>F17</sup>or (aa)] 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.
- <sup>F18</sup>(6A) Subject to subsection (11) of this section, where subsection (5A) of section 34 of this Act is contravened, the holder of the betting office licence in respect of the premises shall be guilty of an offence.
- (6B) Subject to subsection (11) of this section, where, in the case of any premises falling within paragraph (a) or (b) of subsection (5E) of section 34 of this Act—
  - (a) that subsection, or
  - (b) a condition to which the permit is subject,is contravened, the holder of the permit 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

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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
  - (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), [F19(4), (6), (6A) or (6B)] 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.

#### Textual Amendments

- F13** Words in s. 38(3) substituted (20.6.1996) by S.I. 1996/1359, art. 7(4)
- F14** Words in s. 38(6) substituted (20.6.1996) by S.I. 1996/1359, art. 7(5)(a)
- F15** Words in s. 38(6) repealed (20.6.1996) by S.I. 1996/1359, art. 7(5)(b)
- F16** Words in s. 38(6) substituted (20.6.1996) by S.I. 1996/1359, art. 7(5)(c)
- F17** Words in s. 38(6) inserted (20.6.1996) by S.I. 1996/1359, art. 7(5)(d)
- F18** S. 38(6A)(6B) inserted (20.6.1996) by S.I. 1996/1359, art. 7(6)
- F19** Words in s. 38(11) substituted (20.6.1996) by S.I. 1996/1359, art. 7(7)

### 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.

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- (2) Where a person is convicted of an offence under subsection (6) [<sup>F20</sup>or (6B)] 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.

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**Textual Amendments**

**F20** Words in s. 39(2) inserted (20.6.1996) by S.I. 1996/1359, art. 7(8)

**Status:**

Point in time view as at 01/10/1997.

**Changes to legislation:**

There are currently no known outstanding effects for the Gaming Act 1968 (repealed), Part III.