

GAMBLING ACT 2005

EXPLANATORY NOTES

TERRITORIAL EXTENT

Territorial limits – vessels and aircraft

Schedule 12: Club gaming permits and club machine permits

689. *Schedule 12* contains the procedures for obtaining club gaming and club machine permits, and the rules for their duration, maintenance, renewal and cancellation. Licensing authorities will issue both types of permit, and must keep registers of permits granted.
690. By virtue of *paragraphs 27 and 28* a licensing authority must have regard to Commission guidance and the licensing objectives in undertaking its functions under this Schedule.
691. *Paragraphs 1 to 9* include a requirement that applications for a permit are copied to the Commission and the police, who may object to the application, in which case a hearing will be required, unless all the parties agree otherwise.
692. Under *paragraph 6* the licensing authority may only refuse an application on certain grounds. These grounds are that:
- The applicant does not fulfil the requirements for a members' or commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has applied;
 - The applicant's premises are used wholly or mainly by children or young people;
 - An offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
 - A permit held by the applicant has been cancelled in the previous 10 years; or
 - An objection has been lodged by the Commission or the police.
693. If the authority is satisfied that (a) or (b) are the case it must refuse the application. If (c), (d) or (e) is at issue the licensing authority may reject the licence if they think fit, taking account of any relevant guidance issued by the Commission and the licensing objectives.
694. A licensing authority has no discretion to attach conditions to a club machine permit or club gaming permit. Part 12 of the Act sets out particular conditions which are to apply universally to permits of either type.
695. *Paragraph 10* provides a fast track procedure for clubs or institutes in England and Wales which hold a club premises certificate under section 72 of the Licensing Act 2003 (authorising the sale or supply of alcohol or provision of regulated entertainment). Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the grounds upon which an authority can refuse

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a permit are reduced. This is because the club or institute will already have been through a licensing process in relation to its club premises certificate under the 2003 Act, and to impose the full requirements of Schedule 12 would produce unwarranted duplication and cost. This fast track procedure does not apply in Scotland. Instead, Scottish Ministers can make alternative provision using their powers under section 285.

696. *Paragraph 11* deals with the form and content of permits, and *paragraphs 12 to 16* with their maintenance, including variation of permits if the information in them becomes inaccurate. *Paragraphs 17 to 20* provide that permits, with one exception, will last for ten years (in which case they can be renewed) unless they cease to have effect under another provision of the Schedule. These provisions are those for: lapse, surrender, cancellation and forfeiture.
697. The exception to the ten year duration is that where a permit has been granted under the fast track procedure under paragraph 10, such permits last indefinitely unless the club premises certificate under the Licensing Act 2003 ceases to have effect, or is surrendered, cancelled, or forfeited.
698. *Paragraph 25* sets out full appeal rights from the decisions of licensing authorities under this Schedule.

Sections 275 & 281: Bingo in clubs and alcohol licensed premises

699. These sections contain particular provisions regulating bingo played pursuant to any of the authorisations in this Part by clubs or miners' welfare institutes, or on alcohol licensed premises. The purpose of sections 275 and 281 is to prevent facilities for bingo being offered on a large scale (high turnover bingo) under the various authorisations in this Part. Where a club, miners' welfare institute, or alcohol licensed premises wishes to offer high turnover bingo it will require a bingo operating licence from the Commission, under Part 5. In such cases, clubs and miners' welfare institutes are relieved from the general obligation under Part 5 to have at least one management office in the organisation held by a personal licence holder, under section 80(9).
700. The trigger for needing a bingo operating licence is that "high turnover bingo" is played in a "high turnover period", and sections 275 and 281 provide identical and comprehensive definitions for both terms. The key element is that the total stakes or prizes for bingo games played in any period for 7 days exceed £2000. Subject to appropriate Parliamentary approval, this figure can be amended by the Secretary of State by order.
701. If a club or institute plays high turnover bingo without the appropriate operating licence it will commit an offence under section 33. Sections 275 and 281 operate in a way which means that offences are only committed after a club or institute has had its first week of high turnover bingo. Once that has happened an offence takes place if high turnover bingo is played again in the following 12 month period, unless a bingo operating licence has been obtained. In addition, a club or institute must inform the Commission whenever a high turnover period first begins (i.e. when it has had its first week of high turnover bingo), and failure to do so is an offence, with a maximum penalty of a level 3 fine.

Sections 277 & 278: Alcohol licensed premises

702. *Sections 279 to 284* are concerned with the provision of gaming, and the making available of gaming machines, in certain premises which are licensed to supply alcohol for consumption on the premises under Part 3 of the Licensing Act 2003 or under section 9(1) of the Licensing (Scotland) Act 1976.
703. The relevant premises are those which contain a bar at which alcohol is served for consumption on the premises. This means that premises such as restaurants which do

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not have a bar for serving drinks to customers will fall outside the scope of the premises to which sections 279 to 284 apply. The sections also do not apply to vehicles.

704. The gaming and gaming machine exemptions conferred by sections 279 to 284 only apply at those times when alcohol is authorised to be sold at the premises.
705. A reference to “alcohol licensed premises” in these notes means premises which are within the scope of sections 277 and 278.

Sections 279 & 280: Exempt gaming

706. This section authorises the provision of gaming facilities on alcohol licensed premises, provided the gaming complies with certain conditions. No further authorisation is required to make the gaming lawful, provided the conditions are complied with.
707. The conditions are as follows:
- The facilities are limited to equal chance gaming;
 - Stakes and prizes for the gaming must not exceed any limits as to value or amount prescribed by the Secretary of State;
 - No amount may be deducted or levied from amounts staked or won;
 - No participation fees may be charged (and this includes membership subscriptions, see section 344(3));
 - The games played may only take place on one set of alcohol-licensed premises, i.e. there may not be any linking of games between premises; and
 - Children and young people must be excluded from the gaming.
708. Under section 6 of the Gaming Act 1968 (general provisions as to gaming on premises licensed for retail sale of liquor) cribbage and dominoes may be played for winnings at premises licensed to sell alcohol for consumption on the premises. It is also possible, under section 6, for the holder of such a licence to apply for permission for other forms of gaming on the premises. In all cases conditions may be made to prevent high-stake gaming taking place, and to ensure the gaming does not become the main inducement to attend the premises. The Act repeals this section, and sections 279 and 280 contain the replacement provisions.

Section 282: Gaming machines: automatic entitlement

709. This section authorises up to 2 Category C or D gaming machines to be made available on alcohol licensed premises. It does this by exempting such premises from the premises offence in Part 3 (section 37) and the offence relating to making gaming machines available in Part 10 (section 242). This exemption only applies if the person who holds the relevant alcohol licence has notified the licensing authority of his intention to make gaming machines available, and has paid the required notification fee. The section is also subject to the condition that gaming machines are to be made available in compliance with any relevant provision of a code of practice issued by the Gambling Commission.
710. This section, together with the other provisions of this Part on gaming machines in alcohol licensed premises, replace the provisions of section 34 of, and Schedule 9 to, the Gaming Act 1968 for the grant of permits to alcohol licensed premises.

Section 283: Licensed premises gaming machine permits

711. This section allows further Category C or D gaming machines to be made available in alcohol licensed premises (in addition to the two machines authorised under section 282) in accordance with a permit known as a licensed premises gaming machine

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permit. No limit is imposed on the number of gaming machines that can be made available under this section. The permit will provide in each case for the number of Category C or D gaming machines that it authorises.