

GAMBLING ACT 2005

EXPLANATORY NOTES

TERRITORIAL EXTENT

Territorial limits – vessels and aircraft

Schedule 6: Exchange of information: persons and bodies

Part 3: General Offences

Section 36: Territorial application

138. This section makes provision with respect to the territorial application of the offence of providing facilities for gambling. It provides that, where a person is providing facilities for gambling, it is immaterial whether the facilities are provided wholly or partly by means of remote communication, or inside, outside or partly inside and partly outside the UK. However, where what is involved is remote gambling (defined in section 4 to mean gambling in which those participating do so by means of remote communication), the offence will only apply if at least one piece of remote gambling equipment used in providing the facilities is located in Great Britain.
139. This means that, where gambling takes place remotely, the person providing the facilities for gambling will not fall within the scope of the offence if he does not have relevant equipment within Great Britain. This is so even if people within Great Britain can receive the gambling he is providing (e.g. over the internet). On the other hand, where at least one piece of remote gambling equipment is located in Great Britain, a person providing facilities for remote gambling will come within the scope of the offence. Therefore, a person commits the offence if any part of his remote equipment is located in Great Britain and he does not have the required authorisation or is not covered by one of the exceptions. This is so regardless of whether the gambling facilities are provided to people in Great Britain or outside.
140. *Subsection (4)* defines “remote gambling equipment” for the purposes of the Act:
- *Subsection (4)(a)* captures equipment which stores information e.g. a computer database or server, about a person’s participation in gambling. This includes the “game history” of a player, including the player’s identity and records of their wins and losses. Equipment used for storage of information for general promotional purposes would not be caught by the definition, unless the information relates to someone’s participation in gambling;
 - *Subsection (4)(b)* captures equipment used for generating and presenting virtual gambling;
 - *Subsection 4(c)* captures equipment used by the person providing the gambling (or on his behalf) for determining the result or the effect of the result of the particular transaction. This covers random number generators used in virtual gaming, or the equipment for calculating whether someone has won or lost a bet on a real event;

*These notes refer to the Gambling Act 2005 (c.19)
which received Royal Assent on 7 April 2005*

- *Subsection 4(d)* captures equipment used to store information relating to a result. This is different to equipment under subsection 4(c) which covers the act of generation of a result, not its subsequent retention.
141. *Subsection (5)* excludes equipment used by a person who is participating in the remote gambling (i.e. the computer keyboard and screen), provided that the equipment has not been provided by the supplier of the remote gambling.
 142. This section does not restrict the Commission from attaching licence conditions to remote operating licences about the collection and retention of information generally by an operator (under its powers in Part 5). The purpose of this section is to establish whether a remote operator is within the jurisdiction for the purposes of the offence in section 33.
 143. In the case of non-remote gambling (i.e. where remote communication is not used by those participating in the gambling), then the offence will apply if anything done in the course of the provision of the facilities for gambling is done in Great Britain.