

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

# GAMBLING ACT 2005

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## EXPLANATORY NOTES

### TERRITORIAL EXTENT

*Territorial limits – vessels and aircraft*

*Schedule 6: Exchange of information: persons and bodies*

### Part 3: General Offences

*Sections 37 & 38: Use of premises*

144. This section makes it an offence to use premises, or cause or allow premises to be used, for the gambling activities set out in *subsection (1)* unless such use is:
- authorised by an appropriate licence or other permission obtained under the Act; or
  - covered by an exception provided in the Act.
145. The principal authorisations which prevent a person committing an offence under this section are:
- a premises licence under Part 8;
  - a temporary use notice under Part 9;
  - an occasional use notice under this Part;
  - premises used in connection with the provision of facilities for football pools in accordance with an authorisation under this Part;
  - a family entertainment centre gaming machine permit under Part 10;
  - a club gaming or gaming machine permit, or licensed premises gaming machine permit under Part 12; or
  - a prize gaming permit under Part 13.
146. In addition, there are express exceptions which permit premises to be used for the provision of specified facilities for gambling without the need for a licence or permit, including the provision of gaming machines in premises with an alcohol licence and travelling fairs, and gaming at non-commercial events.
147. *Subsection (4)* provides an exception for people who are accepting bets on a track, where that track is covered by a premises licence issued under Part 8. In these circumstances the person accepting bets does not himself have to hold a premises licence. This subsection accommodates on-course betting operations, preventing each on-course operator from requiring a separate premises licence, provided the track itself is subject to the appropriate premises licence.

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148. *Subsection (5)* ensures that casino operators can provide betting and (in the case of regional and large casinos) bingo under their casino premises licences without the need for a separate premises licence relating to those facilities.
149. *Subsection (6)* ensures that no offence is committed where premises are used to provide the facilities listed in subsection (1), provided that those facilities are used only by people who are not on the premises. An example of this is where premises house a server used for the purposes of remote gambling. *Subsection (6)* also exempts premises which are used only by people acting in the course of business. For example, a telephone call centre set up by a betting operator to accept telephone bets.
150. This is a summary offence with a maximum penalty on conviction of imprisonment for a term not exceeding 51 weeks for England and Wales (or 6 months in Scotland), a level 5 fine on the standard scale, or both.
151. [Section 38](#) confers power on the Secretary of State to vary, by order, the gambling activities to which the section 37 offence applies. This includes the power to add or remove a gambling activity to the list provided, or to vary the entry for a gambling activity. The purpose of this provision is, in particular, to ensure that it is possible to bring within the scope of the offence any gambling activities which may be invented in the future, but which are not covered by the list in *subsection (1)*. Where a new gambling activity is added, the Secretary of State may make consequential amendments to Part 8, to provide for an appropriate premises licence, and matters such as machine entitlements.
152. In particular, an order may have the effect of extending the offence to spread bets or other bets which are subject to regulation under the Financial Services and Markets Act 2000. Spread betting, which is regulated under the 2000 Act, is generally excluded from the scope of this Act (see section 10). The effect of section 38 is to allow the scope of this Act to be extended so that the use of premises to provide facilities for spread betting is also regulated under this Act. In these circumstances, amendments would also be required to Part 8 to enable premises licences to be granted under the Act, authorising premises to be used for the provision of facilities for spread betting.