



# Gambling Act 2005

## 2005 CHAPTER 19

### PART 10

#### GAMING MACHINES

##### *Definitions*

#### **235 Gaming machine**

- (1) In this Act “gaming machine” means a machine which is designed or adapted for use by individuals to gamble (whether or not it can also be used for other purposes).
- (2) But—
- (a) a domestic or dual-use computer is not a gaming machine by reason only of the fact that it can be used to participate in remote gambling,
  - (b) a telephone or other machine for facilitating communication (other than a computer) is not a gaming machine by reason only of the fact that it can be used to participate in remote gambling,
  - (c) a machine is not a gaming machine by reason only of the fact that it is designed or adapted for use to bet on future real events,
  - (d) a machine is not a gaming machine by reason only of the fact that it dispenses lottery tickets or otherwise enables a person to enter a lottery provided that the results of the lottery—
    - (i) are not determined by the machine, and
    - (ii) are not announced by being displayed or communicated by the machine without there being an interval, between each entry to the lottery and the announcement, of at least such duration as the Secretary of State shall prescribe by order,
  - (e) a machine is not a gaming machine if—
    - (i) it is designed or adapted for the playing of bingo, and
    - (ii) it is used in accordance with a condition attached to a bingo operating licence under section 75 or 77 by virtue of section 85(2)(b),

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- (f) a machine is not a gaming machine if—
    - (i) it is designed or adapted for the playing of bingo by way of prize gaming, and
    - (ii) it is used in accordance with a condition attached to a gaming machine general operating licence under section 75 or 77 by virtue of section 85(2)(b),
  - (g) a machine is not a gaming machine if—
    - (i) it is designed or adapted for the playing of bingo by way of prize gaming,
    - (ii) it is made available for use in reliance on a family entertainment centre gaming machine permit or a prize gaming permit, and
    - (iii) any requirements prescribed for the purposes of this paragraph in a code of practice under section 24, as to the specification of the machine or the circumstances in which it is made available for use, are complied with,
  - (h) a machine is not a gaming machine by reason only of the fact that it is designed or adapted to be—
    - (i) controlled or operated by an individual employed or concerned in arranging for others to play a real game of chance, or
    - (ii) used in connection with a real game of chance the arrangements for which are controlled or operated by an individual, and
  - (i) a machine is not a gaming machine by reason only of the fact that it is designed or adapted to enable individuals to play a real game of chance, if—
    - (i) its design or adaptation is such that it does not require to be controlled or operated by a person employed or concerned in arranging for others to play the game,
    - (ii) it is not designed or adapted for use in connection with a game the arrangements for which are controlled or operated by an individual, and
    - (iii) it is used in accordance with a condition attached to a casino operating licence under section 75 or 77 by virtue of section 85(2)(b).
- (3) In this Act—
- (a) a reference to a machine is a reference to any apparatus which uses or applies mechanical power, electrical power or both,
  - (b) a reference to a machine being designed or adapted for a purpose includes—
    - (i) a reference to a computer being able to be used for that purpose (subject to subsection (2)), and
    - (ii) a reference to any other machine to which anything has been done as a result of which it can reasonably be expected to be used for that purpose (subject to subsection (2)),
  - (c) a reference to a part of a gaming machine—
    - (i) includes a reference to any computer software designed or adapted for use in a gaming machine, but
    - (ii) does not include a reference to a component of a gaming machine which does not influence the outcome of a game,
  - (d) a reference to installing a part of a gaming machine includes a reference to installing computer software for the purpose of altering the operation of a gaming machine,

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- (e) a reference to adapting a gaming machine includes a reference to adapting a machine so that it becomes a gaming machine, and
  - (f) “domestic computer” and “dual-use computer” shall have the meanings assigned by the Secretary of State by regulations.
- (4) Regulations under subsection (3)(f) may, in particular, make provision by reference to—
- (a) the location of a computer,
  - (b) the purposes for which a computer is used,
  - (c) the circumstances in which a computer is used,
  - (d) the software installed on a computer, or
  - (e) any other matter.
- (5) The Secretary of State may make regulations providing for circumstances in which a single piece of apparatus is to be treated as more than one gaming machine for the purpose of provision made by or by virtue of this Act; and the regulations may, in particular, make provision by reference to the number of persons able to operate the apparatus at the same time.

#### **Commencement Information**

- 11** S. 235 in force at 21.5.2007 in so far as not already in force by S.I. 2006/3272, art. 2(2), Sch. 2 (with arts. 7-11, 7-12, Sch. 4) (as amended by S.I. 2007/1157, arts. 3(3), 4)
- 12** S. 235(1)(2)(b)-(i)(3)(a)-(e)(5) in force at 1.1.2007 by S.I. 2006/3272, art. 2(1), Sch. 1 (with arts. 7-11, 7-12, Sch. 4)
- 13** S. 235(2)(a)(3)(f)(4) in force at 1.9.2007 in so far as not already in force by S.I. 2006/3272, art. 2(4)(5), Sch. 3B (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

### **236 Gaming machines: Categories A to D**

- (1) The Secretary of State shall make regulations defining four classes of gaming machine for the purposes of this Act (to be known as Categories A, B, C, and D).
- (2) Regulations under subsection (1) shall—
  - (a) divide Category B into sub-categories, and
  - (b) make provision for determining to which sub-category (or sub-categories) of Category B a reference in this Act to Category B shall be treated as referring.
- (3) Regulations under subsection (1) shall operate by reference to the nature of the facilities for gambling provided by the machine.
- (4) Regulations under subsection (1) may, in particular, make provision by reference to—
  - (a) amounts paid in respect of the use of a machine;
  - (b) the value of prizes;
  - (c) the nature of prizes;
  - (d) the nature of the gambling for which the machine can be used;
  - (e) the premises where a machine is used.
- (5) Regulations under subsection (1) may identify matters (whether or not addressed by other provisions of the regulations) as to which a condition may not be attached to an operating licence or to a premises licence.

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- (6) In accordance with regulations under subsection (1) a machine may change category as a result of a change of the mechanism, or the loading or removal of software, which alters the nature of the facilities for gambling provided by the machine.

**Commencement Information**

- I4** S. 236 in force at 21.5.2007 by S.I. 2006/3272, art. 2(2), Sch. 2 (with arts. 7-11, 7-12, Sch. 4) (as amended by S.I. 2007/1157, arts. 3(3), 4)
- I5** S. 236 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), Sch. 3B (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

**237 Adult gaming centre**

In this Act “adult gaming centre” means premises in respect of which an adult gaming centre premises licence has effect.

**Commencement Information**

- I6** S. 237 in force at 1.1.2007 by S.I. 2006/3272, art. 2(1), Sch. 1 (with arts. 7-11, 7-12, Sch. 4)

**238 Family entertainment centre**

In this Act—

“family entertainment centre” means premises (other than an adult gaming centre) wholly or mainly used for making gaming machines available for use, and

“licensed family entertainment centre” means premises in respect of which a family entertainment centre premises licence has effect.

**Commencement Information**

- I7** S. 238 in force at 1.1.2007 by S.I. 2006/3272, art. 2(1), Sch. 1 (with arts. 7-11, 7-12, Sch. 4)

**239 Prize**

In this Act “prize” in relation to a gaming machine—

- (a) includes any money, article, right or service won, whether or not described as a prize, but
- (b) does not include an opportunity to play the machine again.

**Commencement Information**

- I8** S. 239 in force at 1.1.2007 by S.I. 2006/3272, art. 2(1), Sch. 1 (with arts. 7-11, 7-12, Sch. 4)

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## Regulations

### 240 Use of machine

- (1) The Secretary of State may make regulations controlling the circumstances in which a gaming machine is made available for use.
- (2) Regulations under subsection (1) may, in particular, make provision by reference to—
  - (a) the method by which stakes may be deposited or payments made for the use of a machine;
  - (b) the nature of, or arrangements in respect of receiving or claiming, prizes;
  - (c) rollover of stakes or prizes;
  - (d) the proportion of amounts staked or paid that is returned by way of prizes;
  - (e) the display of information;
  - (f) any other matter relating to the manner in which a machine operates.
- (3) Regulations under subsection (1) may identify matters (whether or not addressed by other provisions of the regulations) as to which a condition may not be attached to an operating licence or to a premises licence.

#### Commencement Information

**I9** S. 240 in force at 1.1.2007 by S.I. 2006/3272, art. 2(1), Sch. 1 (with arts. 7-11, 7-12, Sch. 4)

### 241 Supply, &c.

- (1) The Secretary of State may make regulations about the supply, installation, adaptation, maintenance or repair of a gaming machine or part of a gaming machine.
- (2) Regulations under subsection (1) may identify matters (whether or not addressed by other provisions of the regulations) as to which a condition may not be attached to an operating licence or to a premises licence.

#### Commencement Information

**I10** S. 241 in force at 1.1.2007 by S.I. 2006/3272, art. 2(1), Sch. 1 (with arts. 7-11, 7-12, Sch. 4)

## Offences

### 242 Making machine available for use

- (1) A person commits an offence if he makes a gaming machine available for use by another unless—
  - (a) he makes the machine available for use in accordance with an operating licence, or
  - (b) an exception in section 247, 248, 249, 271, 273, 282, 283 or 287 applies.
- (2) A person commits an offence if he makes a gaming machine available for use in contravention of regulations under section 240.

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#### **Commencement Information**

**I11** S. 242 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), Sch. 3B (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

### **243 Manufacture, supply, &c.**

- (1) A person commits an offence if he manufactures, supplies, installs, adapts, maintains or repairs a gaming machine or part of a gaming machine unless—
  - (a) he acts in accordance with an operating licence, or
  - (b) an exception in or under section 248 or 250 applies.
- (2) A person commits an offence if he—
  - (a) supplies, installs, adapts, maintains or repairs a gaming machine or part of a gaming machine, and
  - (b) fails to comply with a provision of regulations under section 241.
- (3) Subsections (1) and (2) do not apply to the supply of a gaming machine, or part of a gaming machine—
  - (a) as scrap (without any element of salvage), or
  - (b) incidental to the sale or letting of property on which the machine has previously been used in reliance on a provision of this Act.

#### **Commencement Information**

**I12** S. 243 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), Sch. 3B (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

### **244 Linked machines**

- (1) A person commits an offence if—
  - (a) he makes a gaming machine (“the first gaming machine”) available for use by another, and
  - (b) the amount or value of a prize available through use of the first gaming machine is or may be wholly or partly determined by reference to use made of another gaming machine (“the linked gaming machine”).
- (2) But subsection (1) does not apply where—
  - (a) the person who makes the first gaming machine available for use is the holder of a casino premises licence, and
  - (b) the first gaming machine and the linked gaming machine are situated on the same premises.
- (3) The Secretary of State may by order amend, or modify the effect of, subsection (2) so that subsection (1) is disappplied to the linking of machines in casinos whether or not the machines are situated on the same premises—
  - (a) to such extent as the order may specify,
  - (b) in such circumstances as the order may specify, and
  - (c) subject to such conditions as the order may specify.

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#### Commencement Information

**I13** S. 244 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), Sch. 3B (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

PROSPECTIVE

#### <sup>F1</sup>245 Credit

#### Textual Amendments

**F1** S. 245 repealed (1.9.2007) by Gambling Act 2005 (Repeal) (Remote Operating Licence and Credit) Regulations 2007 (S.I. 2007/2321), regs. 1, 2(c)

#### 246 Penalty

- (1) A person guilty of an offence under this Part shall be liable on summary conviction to—
  - (a) imprisonment for a term not exceeding 51 weeks,
  - (b) a fine not exceeding level 5 on the standard scale, or
  - (c) both.
- (2) In the application of subsection (1) to Scotland the reference to 51 weeks shall have effect as a reference to six months.

#### Commencement Information

**I14** S. 246 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), Sch. 3B (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

#### *Exceptions*

#### 247 Family entertainment centre gaming machine permit

- (1) A person does not commit an offence under section 37 or 242 if he makes a Category D gaming machine available for use in accordance with a family entertainment centre gaming machine permit.
- (2) A family entertainment centre gaming machine permit is a permit issued by a licensing authority authorising a person to make Category D gaming machines available for use in a specified family entertainment centre.
- (3) Schedule 10 makes further provision about family entertainment centre gaming machine permits.

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#### Commencement Information

- I15** S. 247(1) in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)
- I16** S. 247(2) in force at 13.11.2006 by S.I. 2006/2964, **art. 2(b)**
- I17** S. 247(3) in force at 13.11.2006 for specified purposes by S.I. 2006/2964, **art. 2(b)**
- I18** S. 247(3) in force at 21.5.2007 for specified purposes by S.I. 2006/3272, art. 2(2), **Sch. 2** (with arts. 7-11, 7-12, Sch. 4) (as amended by S.I. 2007/1157, arts. 3(3), 4)

### 248 No prize

- (1) A person does not commit an offence under section 37 or 242 if—
  - (a) he makes a gaming machine available for use by an individual, and
  - (b) the individual does not, by using the machine, acquire an opportunity to win a prize.
- (2) The Secretary of State may make regulations creating exceptions from the offence under section 243 in connection with machines which, by virtue of their nature or any other specified matter, are not designed or expected to be used to provide an opportunity to win a prize.

#### Commencement Information

- I19** S. 248(1) in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), **Sch. 3B** (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)
- I20** S. 248(2) in force at 1.1.2007 by S.I. 2006/3272, art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

### 249 Limited prize

- (1) A person does not commit an offence under section 37 or 242 if—
  - (a) he makes a gaming machine available for use by an individual, and
  - (b) the individual does not, by using the machine, acquire an opportunity to win a prize of a value in excess of the amount that he pays for or in connection with his use of the machine.
- (2) For the purpose of subsection (1)(b)—
  - (a) the reference to paying includes a reference to—
    - (i) paying money by way of an entrance charge,
    - (ii) using a coin to activate a gaming machine where the coin will not or may not be returned,
    - (iii) transferring money's worth, and
    - (iv) paying for goods or services at a price or rate which reflects the opportunity to use a gaming machine, and
  - (b) it is immaterial—
    - (i) to whom payment is made, and
    - (ii) who receives benefit from the payment.



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#### Commencement Information

**I21** S. 249 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), Sch. 3B (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

### 250 Single-machine supply and maintenance permits

- (1) A person does not commit an offence under section 33 or 243(1) by reason only of the fact that he supplies, repairs, installs or maintains a gaming machine or part of a gaming machine in accordance with a permit under this section.
- (2) A person may apply to the Commission for a permit authorising him to supply, repair, install or maintain a gaming machine or part of a gaming machine.
- (3) An application under this section must—
  - (a) be made in writing,
  - (b) specify the gaming machine or part in relation to which the permit is sought,
  - (c) give such details of the activity in relation to which the permit is sought as the Commission may direct,
  - (d) be in such form, and contain such other information, as the Commission may direct, and
  - (e) be accompanied by the prescribed fee.
- (4) On consideration of an application under this section the Commission may—
  - (a) grant the application and issue a permit to the applicant, or
  - (b) refuse the application.
- (5) The Commission may grant an application under this section only if satisfied that the licensing objectives are irrelevant to the activity for which the permit is sought.
- (6) A permit under this section must specify—
  - (a) a period, not exceeding one year, during which it has effect,
  - (b) the machine or part to which it relates, and
  - (c) the activities which it authorises.
- (7) A permit under this section may be subject to a condition attached by the Commission.
- (8) In subsection (3)(e) “prescribed” means prescribed by regulations made by the Secretary of State.

#### Commencement Information

**I22** S. 250 in force at 1.9.2007 by S.I. 2006/3272, art. 2(4)(5), Sch. 3B (with arts. 7-11, 7-12, Sch. 4) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

#### General

### 251 Territorial application

This Part applies—

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- (a) to anything done in relation to a gaming machine which (or any part of which) is situated in Great Britain, and
- (b) to anything done in Great Britain in relation to a gaming machine (irrespective of where it is situated).

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**Commencement Information**

**I23** S. 251 in force at 1.1.2007 by S.I. 2006/3272, art. 2(1), Sch. 1 (with arts. 7-11, 7-12, Sch. 4)

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**Changes to legislation:**

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