



# Gambling Act 2005

## 2005 CHAPTER 19

### PART 12

#### CLUBS, PUBS, FAIRS, &C.

VALID FROM 21/05/2007

#### *Clubs*

#### **266 Members' club**

- (1) In this Act members' club means a club—
- which is established and conducted wholly or mainly for purposes other than the provision of facilities for gaming (subject to subsection (2)),
  - which is established and conducted for the benefit of its members (and which is not otherwise established or conducted as a commercial enterprise),
  - which is not established with the purpose of functioning only for a limited period of time, and
  - which has at least 25 individual members.
- (2) A club is a members' club for the purposes of this Act despite subsection (1)(a) if—
- it is established or conducted wholly or mainly for the purpose of the provision of facilities for gaming of a prescribed kind, and
  - facilities are not provided for any other kind of gaming in the course of the club's activities.

#### **267 Commercial club**

- (1) In this Act commercial club means a club—
- which is established and conducted wholly or mainly for purposes other than the provision of facilities for gaming (subject to subsection (2)),

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- (b) which is not established with the purpose of functioning only for a limited period of time, and
  - (c) which has at least 25 individual members.
- (2) A club is a commercial club for the purposes of this Act despite subsection (1)(a) if—
- (a) it is established or conducted wholly or mainly for the purpose of the provision of facilities for gaming of a prescribed kind, and
  - (b) facilities are not provided for any other kind of gaming in the course of the club's activities.

### **268 Miners' welfare institute**

- (1) In this Act miners' welfare institute means an association—
- (a) which is established and conducted for social and recreational purposes, and
  - (b) which satisfies subsection (2) or (4).
- (2) An association satisfies this subsection if its affairs are managed by a group of individuals of whom at least two thirds are miners' representatives.
- (3) In subsection (2) “miners' representative” means a person who—
- (a) is nominated or appointed by a person who employs or has employed individuals in the course of a coal mining business,
  - (b) is nominated or appointed by the charitable trust known as the Coal Industry Social Welfare Organisation,
  - (c) is nominated or appointed by an organisation representing persons who are or were employed in connection with coal mining, or
  - (d) is or was employed in connection with coal mining;
- and the group mentioned in subsection (2) must contain both one or more persons of a kind specified in paragraph (a) or (b) and one or more persons of a kind specified in paragraph (c) or (d).
- (4) An association satisfies this subsection if—
- (a) it operates on premises the use of which is regulated in accordance with a charitable trust, and
  - (b) the trust has received money from—
    - (i) the Miners' Welfare Fund established by section 20 of the Mining Industry Act 1920 (c. 50),
    - (ii) the former body corporate which was known as the Coal Industry Social Welfare Organisation and incorporated under the Companies Act 1948 (c. 38), or
    - (iii) the charitable trust known as the Coal Industry Social Welfare Organisation.

VALID FROM 01/09/2007

### **269 Exempt gaming**

- (1) Sections 33 and 37 shall not apply to the provision of facilities for equal chance gaming which satisfies the conditions of this section by—
- (a) a members' club,

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- (b) a commercial club,
  - (c) a club that would be a members' club but for section 266(1)(a),
  - (d) a club that would be a commercial club but for section 267(1)(a), or
  - (e) a miners' welfare institute.
- (2) The first condition of gaming for the purposes of subsection (1) is that the arrangements for the gaming satisfy the prescribed requirements (if any) in relation to—
- (a) amounts that may be staked, or
  - (b) the amount or value of a prize.
- (3) The second condition of gaming for the purposes of subsection (1) is that no amount is deducted or levied from sums staked or won.
- (4) The third condition of gaming for the purposes of subsection (1) is that any participation fee does not exceed such maximum as may be prescribed.
- (5) The fourth condition of gaming for the purposes of subsection (1) is that a game played on one set of premises is not linked with a game played on another set of premises.
- (6) The fifth condition of gaming for the purposes of subsection (1), which does not apply to a club of a kind mentioned in subsection (1)(b) or (d), is that each person who participates—
- (a) is a member of the club or institute who applied for membership, was nominated for membership or became a member, at least 48 hours before he participates, or
  - (b) is a guest of a member of the club or institute who would be entitled to participate by virtue of paragraph (a).

VALID FROM 01/09/2007

## **270 Section 269: supplementary**

- (1) In section 269(1) a reference to the provision of facilities by a club or institute includes a reference to any provision of facilities made—
- (a) on behalf of or by arrangement with the club or institute, and
  - (b) in the course of its activities.
- (2) Regulations prescribing requirements in relation to stakes or prizes for the purposes of section 269(2) may, in particular—
- (a) make different provision for different classes of club or institute;
  - (b) make different provision for different classes or descriptions of game.
- (3) In section 269(3) the reference to a deduction or levy in respect of gaming provided by, on behalf of or by arrangement with a club or institute is to a deduction or levy made by or on behalf of—
- (a) the club or institute, or
  - (b) a person providing facilities for gaming on behalf of, or by arrangement with, the club or institute.

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- (4) Regulations prescribing a maximum charge for the purposes of section 269(4) may, in particular—
- (a) make different provision for different classes of club or institute;
  - (b) make provision depending on whether a club or institute holds a club gaming permit;
  - (c) make different provision for different classes or descriptions of game;
  - (d) make different provision for different classes or descriptions of fee.
- (5) For the purposes of section 269(5) two games are linked if—
- (a) the result of one game is or may be wholly or partly determined by reference to the result of the other game, or
  - (b) the amount of winnings available in one game is or may be wholly or partly determined by reference to the amount of participation in the other game;
- and if a single game is played partly on one set of premises and partly on another it shall be treated as two linked games.
- (6) For the purposes of section 269(6) a person shall not be treated as the guest of a member if the member extends an invitation—
- (a) having had no previous acquaintance with the person, and
  - (b) for the purpose only of enabling the person to take advantage of facilities for gaming provided by or for the club or institute.

## **271 Club gaming permit**

- (1) Sections 33, 37 and 242 shall not apply to the provision of facilities for gaming in accordance with a club gaming permit.
- (2) A club gaming permit is a permit issued by a licensing authority authorising the provision of facilities for gaming—
  - (a) on premises on which a members' club or a miners' welfare institute operates, and
  - (b) in the course of the activities of the club or institute.
- (3) A club gaming permit shall, by virtue of this section, authorise—
  - (a) making up to three gaming machines available for use, each of which must be of Category B, C or D,
  - (b) the provision of facilities for gaming which satisfies the conditions in section 269 except for the first condition, and
  - (c) the provision of facilities for games of chance, of such class or description as may be prescribed, in accordance with the conditions specified in subsection (4).
- (4) Those conditions are—
  - (a) that no participation fee is charged otherwise than in accordance with regulations (which may make provision about the circumstances in which a fee may be charged and about the amount of a fee),
  - (b) that no amount is deducted or levied from sums staked or won otherwise than in accordance with regulations (which may make provision about the circumstances in which an amount may be deducted or levied, about the

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- amount of the deduction or levy and about the method by which the amount is determined),
- (c) that the public is excluded from any area of the club's or institute's premises where gaming is taking place, and
  - (d) that children and young persons are excluded from any area of the club's or institute's premises where gaming is taking place.
- (5) Regulations under subsection (4)(a) or (b) may—
- (a) make different provision for different classes of club or institute;
  - (b) make different provision for different classes or descriptions of game;
  - (c) make different provision for different classes or descriptions of fee, deduction or levy.
- (6) A club gaming permit shall, by virtue of this subsection, be subject to the condition that each person who participates in gaming in reliance on the permit—
- (a) is a member of the club or institute who applied for membership, was nominated for membership or became a member, at least 48 hours before he participates, or
  - (b) is a guest of a member of the club or institute who would be entitled to participate by virtue of paragraph (a).
- (7) A club gaming permit shall, by virtue of this subsection, be subject to the conditions—
- (a) that no child or young person use a Category B or C gaming machine on the club's or institute's premises, and
  - (b) that the holder comply with any relevant provision of a code of practice under section 24 about the location and operation of a gaming machine.

VALID FROM 01/09/2007

## **272 Section 271: supplementary**

- (1) For the purposes of section 271(4)(b) the reference to a deduction or levy in respect of gaming provided by, on behalf of or by arrangement with a club or institute is to a deduction or levy made by or on behalf of—
- (a) the club or institute, or
  - (b) a person providing facilities for gaming on behalf of, or by arrangement with, the club or institute.
- (2) In section 271(4)(c) “the public” means persons other than—
- (a) members of the club or institute,
  - (b) guests of members of the club or institute,
  - (c) staff of the club or institute, and
  - (d) persons providing services to or for the club or institute.
- (3) For the purposes of section 271(4)(c) and (d) a reference to an area where gaming is taking place is a reference to any place in which it is possible to participate in the gaming.
- (4) For the purposes of section 271(6) and subsection (2) above a person shall not be treated as the guest of a member if the member extends an invitation—

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- (a) having had no previous acquaintance with the person, and
- (b) for the purpose only of enabling the person to take advantage of facilities for gaming.

### **273 Club machine permit**

- (1) Sections 37 and 242 shall not apply to making a gaming machine available for use in accordance with a club machine permit.
- (2) A club machine permit is a permit issued by a licensing authority authorising up to three gaming machines, each of which must be of Category B, C or D, to be made available for use—
  - (a) on premises on which a members' club, a commercial club or a miners' welfare institute operates, and
  - (b) in the course of the activities of the club or institute.
- (3) A club machine permit held by a members' club or a miners' welfare institute shall, by virtue of this subsection, be subject to the condition that each person to whom a machine is made available for use in reliance on the permit—
  - (a) is a member of the club or institute who applied for membership, was nominated for membership or became a member, at least 48 hours before he uses the machine, or
  - (b) is a guest of a member of the club or institute who would be entitled to use the machine by virtue of paragraph (a).
- (4) A club machine permit shall, by virtue of this subsection, be subject to the conditions—
  - (a) that no child or young person use a Category B or C gaming machine on the club's or institute's premises, and
  - (b) that the holder comply with any relevant provision of a code of practice under section 24 about the location and operation of a gaming machine.
- (5) For the purposes of subsection (3)(b) a person shall not be treated as the guest of a member if the member extends an invitation—
  - (a) having had no previous acquaintance with the person, and
  - (b) for the purpose only of enabling the person to take advantage of facilities for gaming.

### **274 Procedure, &c.**

- (1) Schedule 12 makes further provision about club gaming permits and club machine permits.
- (2) Subsection (1) does not apply in relation to Scotland if the applicant for or holder of the permit in question is the holder of a certificate of registration under section 105 of the Licensing (Scotland) Act 1976 (c. 66) (certificate of registration in respect of a club) or a relevant Scottish licence or if he falls within such other description as may be specified in regulations under section 285(1).

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

- C1** S. 274(2) excluded (1.1.2007) by The Gambling Act 2005 (Commencement No. 6 and Transitional Provisions) Order 2006 (S.I. 2006/3272), art. 1(1), **Sch. 4 para. 84(14)** (with art. 12(2)-(5), Sch. 4 paras. 81-85)
- C2** S. 274(2) excluded (1.1.2007) by The Gambling Act 2005 (Commencement No. 6 and Transitional Provisions) Order 2006 (S.I. 2006/3272), art. 1(1), **Sch. 4 para. 92(14)** (with art. 12(4), (5), (7)-(9), Sch. 4 paras. 89-93)

VALID FROM 01/09/2007

### 275 Bingo

- (1) The disapplication of section 33 by section 269 or 271 shall not apply to high turnover bingo played during a high turnover period.
- (2) Bingo played in the course of the activities of a club or institute in any period of seven days is high turnover bingo if—
  - (a) the aggregate of stakes at bingo played during the period in the course of the activities of the club or institute exceeds £2,000, or
  - (b) the aggregate of prizes at bingo played during the period in the course of the activities of the club or institute exceeds £2,000.
- (3) A high turnover period begins in relation to a club or institute at the end of a period of seven days during which—
  - (a) the aggregate of stakes at bingo played in the course of the activities of the club or institute exceeds £2,000, or
  - (b) the aggregate of prizes at bingo played in the course of the activities of the club or institute exceeds £2,000.
- (4) A high turnover period expires at the end of the year beginning with the first day of the period of seven days which caused the high turnover period to begin.
- (5) A period of seven days any of which is in a high turnover period does not cause a new high turnover period to begin.
- (6) A club or institute in relation to which a high turnover period begins shall, unless the club or institute holds a bingo operating licence, inform the Commission as soon as is reasonably practicable.
- (7) A club or institute commits an offence if it fails without reasonable excuse to comply with subsection (6).
- (8) A club or institute guilty of an offence under subsection (7) shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (9) The Secretary of State may by order vary a monetary amount specified in this section.

### 276 Interpretation

In sections 266 to 275—



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“prescribed” means prescribed by regulations, and  
 “regulations” means regulations made by the Secretary of State.

VALID FROM 21/05/2007

*Pubs, &c.*

**277 Alcohol licence**

In this Act—

- (a) “alcohol licence” means a premises licence under Part 3 of the Licensing Act 2003 (c. 17),
- (b) “on-premises alcohol licence” means a premises licence under that Part which authorises the supply of alcohol for consumption on the licensed premises, and
- (c) “relevant Scottish licence” means any licence granted under section 9(1) of the Licensing (Scotland) Act 1976 (c. 66) (licence for sale by retail or supply of alcoholic liquor) provided it is not an off-sale licence.

**278 Application of sections 279 to 284**

- (1) Sections 279 to 284 apply to premises (other than a vehicle)—
  - (a) in respect of which an on-premises alcohol licence or relevant Scottish licence has effect,
  - (b) which contain a bar at which alcohol is served for consumption on the premises (without a requirement that alcohol is served only with food), and
  - (c) at a time when alcohol may be supplied in reliance on the alcohol licence or sold for consumption on the premises in reliance on the relevant Scottish licence.
- (2) In those sections a reference to a licensing authority includes a reference to the Sub-Treasurer of the Inner Temple and the Under-Treasurer of the Middle Temple.

VALID FROM 01/09/2007

**279 Exempt gaming**

- (1) Sections 33 and 37 shall not apply to the provision of facilities for equal chance gaming which—
  - (a) takes place on premises to which this section applies, and
  - (b) satisfies the conditions of this section.
- (2) The first condition of gaming for the purposes of subsection (1) is that the arrangements for the gaming satisfy the prescribed requirements in relation to—
  - (a) limiting amounts that may be staked, or
  - (b) limiting the amount or value of a prize.



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- (3) The second condition of gaming for the purposes of subsection (1) is that no amount is deducted or levied from sums staked or won.
- (4) The third condition of gaming for the purposes of subsection (1) is that no participation fee is charged.
- (5) The fourth condition of gaming for the purposes of subsection (1) is that a game played on one set of premises is not linked with a game played on another set of premises.
- (6) The fifth condition of gaming for the purposes of subsection (1) is that children and young persons are excluded from participation.

VALID FROM 01/09/2007

#### **280 Section 279: supplementary**

- (1) In section 279(2) “prescribed” means prescribed by regulations made by the Secretary of State; and regulations may, in particular, make different provision for different classes or descriptions of game.
- (2) For the purposes of section 279(5) two games are linked if—
  - (a) the result of one game is or may be wholly or partly determined by reference to the result of the other game, or
  - (b) the amount or value of a prize available in one game is or may be wholly or partly determined by reference to the extent of participation in the other game;and if a single game is played partly on one set of premises and partly on another it shall be treated as two linked games.

VALID FROM 01/09/2007

#### **281 Bingo**

- (1) The disapplication of section 33 by section 279 shall not apply to high turnover bingo played during a high turnover period.
- (2) Bingo played on premises in any period of seven days is high turnover bingo if—
  - (a) the aggregate of stakes at bingo played on the premises during the period exceeds £2,000, or
  - (b) the aggregate of prizes at bingo played on the premises during the period exceeds £2,000.
- (3) A high turnover period begins in relation to premises at the end of a period of seven days during which—
  - (a) the aggregate of stakes at bingo played on the premises exceeds £2,000, or
  - (b) the aggregate of prizes at bingo played on the premises exceeds £2,000.
- (4) A high turnover period expires at the end of the year beginning with the first day of the period of seven days which caused the high turnover period to begin.

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- (5) A period of seven days any of which is in a high turnover period does not cause a new high turnover period to begin.
- (6) The holder of an on-premises alcohol licence or relevant Scottish licence for premises in relation to which a high turnover period begins shall, unless he holds a bingo operating licence, inform the Commission as soon as is reasonably practicable.
- (7) A person commits an offence if he fails without reasonable excuse to comply with subsection (6).
- (8) A person guilty of an offence under subsection (7) shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (9) The Secretary of State may by order vary a monetary amount specified in this section.

VALID FROM 01/08/2007

## **282 Gaming machines: automatic entitlement**

- (1) Sections 37 and 242 shall not apply to making one or two gaming machines, each of which is of Category C or D, available for use on premises to which this section applies, provided that the conditions in subsections (2) and (3) are satisfied.
- (2) The first condition is that the person who holds the on-premises alcohol licence or the relevant Scottish licence sends the licensing authority—
  - (a) written notice of his intention to make gaming machines available for use in reliance on subsection (1), and
  - (b) the prescribed fee.
- (3) The second condition is that any relevant provision of a code of practice under section 24 about the location and operation of a gaming machine is complied with.
- (4) Subsection (1) does not disapply section 37 or 242 in respect of premises at a time when gaming machines are made available for use on those premises in reliance on a club gaming permit or a club machine permit.
- (5) In this section “prescribed” means—
  - (a) in the case of premises in respect of which an on-premises alcohol licence has effect, prescribed by regulations made by the Secretary of State, and
  - (b) in the case of premises in respect of which a relevant Scottish licence has effect, prescribed by regulations made by the Scottish Ministers.

## **283 Licensed premises gaming machine permits**

- (1) A person does not commit an offence under section 37 or 242 if he makes a gaming machine of Category C or D available in accordance with a licensed premises gaming machine permit.

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- (2) A licensed premises gaming machine permit is a permit issued by a licensing authority authorising a person to make gaming machines of Category C or D (or both) available for use on premises to which this section applies.
- (3) A licensed premises gaming machine permit shall, by virtue of this subsection, be subject to the condition that the holder comply with any relevant provision of a code of practice under section 24 about the location and operation of a gaming machine.
- (4) Subsection (1) does not disapply section 37 or 242 in respect of premises at a time when gaming machines are made available for use on those premises in reliance on a club gaming permit or a club machine permit.
- (5) Schedule 13, which makes further provision about licensed premises gaming machine permits, shall have effect except in relation to Scotland.

#### **284 Removal of exemption**

- (1) A licensing authority may make an order disapplying section 279 or section 282(1) to specified premises.
- (2) A licensing authority may make an order disapplying a section under subsection (1) only if they think that—
  - (a) the application of the section is not reasonably consistent with pursuit of the licensing objectives,
  - (b) gaming has taken place on the premises in purported reliance on the section but in breach of a condition of that section,
  - (c) the premises are mainly used or to be used for gaming, or
  - (d) an offence under this Act has been committed on the premises.
- (3) Before making an order under subsection (1) a licensing authority shall—
  - (a) give the holder of the on-premises alcohol licence or of the relevant Scottish licence (“the licensee”) at least 21 days' notice of the authority's intention to consider making an order,
  - (b) consider any representations made by the licensee,
  - (c) hold a hearing if the licensee requests one, and
  - (d) comply with any prescribed requirements for the procedure to be followed in considering whether to make an order.
- (4) If a licensing authority make an order under subsection (1), they shall as soon as is reasonably practicable give the licensee—
  - (a) a copy of the order, and
  - (b) written reasons for the decision to make the order.
- (5) A licensee may appeal against the making of an order under subsection (1).
- (6) An appeal under subsection (5) must be instituted—
  - (a) in the magistrates' court for a local justice area in which the premises to which the appeal relates are wholly or partly situated,
  - (b) by notice of appeal given to the designated officer, and
  - (c) within the period of 21 days beginning with the day on which the appellant receives a copy of the order against which the appeal is brought.
- (7) On an appeal the magistrates' court may—

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- (a) dismiss the appeal;
  - (b) allow the appeal and quash the order made by the licensing authority;
  - (c) make an order about costs.
- (8) In relation to premises in Scotland—
- (a) subsection (6)(a) shall have effect as if it referred to a sheriff within whose sheriffdom the premises are wholly or partly situated,
  - (b) subsection (6)(b) shall not have effect,
  - (c) the reference in subsection (7) to the magistrates' court shall have effect as a reference to the sheriff, and
  - (d) the reference in subsection (7)(c) to costs shall have effect as a reference to expenses.
- (9) In this section, “prescribed” means prescribed by regulations made by the Secretary of State.

*Clubs, pubs &c: special provision for Scotland*

**285 Permits**

- (1) The Scottish Ministers may, with the consent of the Secretary of State, by regulations provide that such provisions as are set out in the regulations are to apply in relation to—
- (a) a club gaming permit or club machine permit, in place of Schedule 12 if the applicant for or holder of the permit is the holder of a certificate of registration under section 105 of the Licensing (Scotland) Act 1976 (certificate of registration in respect of a club) or a relevant Scottish licence, or
  - (b) a licensed premises gaming machine permit, in place of Schedule 13, if the applicant for or holder of the permit is the holder of a relevant Scottish licence, or if the applicant for or holder of the permit falls within such other description as may be specified in the regulations.
- (2) Regulations under subsection (1) may amend, revoke or otherwise modify any enactment in so far as it appears to the Scottish Ministers necessary or expedient to do so for the purposes of that subsection.

**Commencement Information**

**II** S. 285 in force at 1.1.2007 by S.I. 2006/3272, art. 2(1), Sch. 1 (with arts. 7-11, 7-12, Sch. 4)

VALID FROM 01/09/2007

*Fairs*

**286 Interpretation: travelling fair**

For the purposes of this Act—

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- (a) “fair” means a fair consisting wholly or principally of the provision of amusements, and
- (b) a fair held on a day in a calendar year is a travelling fair” if provided—
  - (i) wholly or principally by persons who travel from place to place for the purpose of providing fairs, and
  - (ii) at a place no part of which has been used for the provision of a fair on more than 27 days in that calendar year.

## **287 Gaming machines**

A person does not commit an offence under section 37 or 242 if—

- (a) he makes one or more Category D gaming machines available for use at a travelling fair, and
- (b) facilities for gambling (whether by way of gaming machine or otherwise) amount together to no more than an ancillary amusement at the fair.

**Status:**

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**Changes to legislation:**

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