



# Gambling Act 2005

## 2005 CHAPTER 19

### PART 16

#### ADVERTISING

#### **333 Territorial application: remote advertising**

- (1) Regulations under section 328 shall have effect in relation to advertising by way of remote communication only if—
- (a) the advertising satisfies the test in subsection (4),
  - (b) the advertising satisfies the additional test in subsection (5) or (6), if relevant, and
  - (c) the gambling to which the advertising relates satisfies the test in subsection (9).

- (2) The prohibition in section 330(1) applies to advertising by way of remote communication only if—
- (a) the advertising satisfies the test in subsection (4),
  - (b) <sup>F1</sup>...and
  - (c) the gambling to which the advertising relates satisfies the test in subsection (9).

<sup>F2</sup>(3) .....

- (4) The test referred to in subsections [<sup>F3</sup>(1)(a) and (2)(a) ] is that the advertising involves—
- (a) providing information, by whatever means (and whether or not using remote communication), intended to come to the attention of one or more persons in Great Britain,
  - (b) sending a communication intended to come to the attention of one or more persons in Great Britain,
  - (c) making data available with a view to its being accessed by one or more persons in Great Britain, or

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- (d) making data available in circumstances such that it is likely to be accessed by one or more persons in Great Britain.
- (5) In the case of a broadcast by television, the additional test is that the broadcaster—
- (a) is under the jurisdiction of the United Kingdom for the purposes of Directive [F42010/13/EU of the European Parliament and of the Council on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services] , or
  - (b) is not under the jurisdiction of an EEA State for the purposes of that Directive.
- (6) In the case of the dissemination of information by way of an information society service within the meaning of Directive 2000/31/EC on electronic commerce, the additional test is that the service provider—
- (a) is established in the United Kingdom for the purposes of that Directive,
  - (b) is established in a non-EEA State for the purposes of that Directive, or
  - (c) has been notified that the conditions for derogation specified in Article 3(4) of that Directive are satisfied in relation to the application to the service provider of regulations under section 328 and of section 330.
- (7) The reference to notification in subsection (6)(c) is a reference to written notice which—
- (a) has been given by the Commission,
  - (b) has neither expired nor been withdrawn, and
  - (c) states whether the Commission's opinion as to satisfaction of the conditions for derogation relates—
    - (i) to the conditions specified in Article 3(4)(a) and (b), or
    - (ii) by virtue of Article 3(5), only to the conditions specified in Article 3(4)(a).
- (8) In a case to which subsection (7)(c)(ii) applies, the Commission shall perform the duties of notification imposed on the United Kingdom by Article 3(5).
- (9) The test referred to in subsections (1)(c) and (2)(c) is—
- (a) in the case of non-remote gambling, that it is to take place in Great Britain, or
  - [F5(b) in the case of remote gambling, that—
    - (i) at least one piece of remote gambling equipment to be used in providing facilities for the gambling is or will be situated in Great Britain, or
    - (ii) no such equipment is or will be situated in Great Britain, but the facilities are or will be capable of being used there.]

#### Textual Amendments

- F1** S. 333(2)(b) omitted (1.11.2014) by virtue of [Gambling \(Licensing and Advertising\) Act 2014 \(c. 17\)](#), [ss. 4\(2\)](#), 6(5); [S.I. 2014/2444](#), [art. 2\(c\)](#) (as amended (29.9.2014) by [S.I. 2014/2646](#), [art. 2](#))
- F2** S. 333(3) omitted (1.11.2014) by virtue of [Gambling \(Licensing and Advertising\) Act 2014 \(c. 17\)](#), [ss. 3\(2\)\(a\)\(ii\)](#), 6(5); [S.I. 2014/2444](#), [art. 2\(b\)](#) (as amended (29.9.2014) by [S.I. 2014/2646](#), [art. 2](#))
- F3** Words in s. 333(4) substituted (1.11.2014) by [Gambling \(Licensing and Advertising\) Act 2014 \(c. 17\)](#), [ss. 3\(2\)\(b\)](#), 6(5); [S.I. 2014/2444](#), [art. 2\(b\)](#) (as amended (29.9.2014) by [S.I. 2014/2646](#), [art. 2](#))
- F4** Words in s. 333(5)(a) substituted (18.8.2010) by [The Audiovisual Media Services \(Codification\) Regulations 2010 \(S.I. 2010/1883\)](#), [regs. 1, 6](#)

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- F5** S. 333(9)(b) substituted (1.11.2014) by [Gambling \(Licensing and Advertising\) Act 2014 \(c. 17\)](#), **ss. 4(3), 6(5)**; [S.I. 2014/2444](#), art. 2(c) (as amended (29.9.2014) by [S.I. 2014/2646](#), art. 2)

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**Commencement Information**

- I1** S. 333 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.)

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**Changes to legislation:**

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