

GAMBLING ACT 2005

EXPLANATORY NOTES

TERRITORIAL EXTENT

Territorial limits – vessels and aircraft

Schedule 6: Exchange of information: persons and bodies

Part 5: Operating Licences

Section 80: Requirement for personal licence

242. Part 6 of the Act provides the licensing system for personal licences. This section sets out the relationship between an operating licence and the need for an operator to use people holding personal licences to provide certain functions and facilities for gambling.
243. When the Commission considers an application for an operating licence, it will consider what offices or functions in the organisation should be performed by a personal licence holder, and attach conditions to the licence specifying what the requirements for personal licences are to be. These conditions could be set by general or individual condition, or the Secretary of State may set generic conditions by regulations to apply to classes of operating licence.
244. There will be one mandatory condition on every operating licence, which is that every operating licence must specify at least one management office which is to be occupied by a person who holds a personal licence (*subsection (1)*). This will be set as a general or individual condition, not a Secretary of State condition. Beyond this one mandatory personal licence, the Commission may identify any additional number of posts in an operator's organisation which must be filled by a personal licence holder (*subsections (2) to (4)*). Such conditions will always relate to either a management office or an operational function.
245. Management office (*subsection (5)*) means:
- A director of a company;
 - A partner;
 - An officer in an unincorporated association; and
 - Any position which (by reason of the terms of the appointment) carries responsibility for:
 - the conduct of a person who performs an operational function; or
 - facilitating or ensuring compliance with the terms of the operating licence.
246. Operational function (*subsection (6)*) means:
- any function that enables the person to influence the outcome of gambling;

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

- receiving or paying money in connection with the gambling; or
 - specified activities in relation to the manufacture and supply of gaming machines.
247. The Secretary of State has the power to amend these definitions through secondary legislation (*subsection (8)*).
248. These broad definitions will enable the Commission to consider the particular circumstances of each operator (irrespective of the job titles the operator may use) and identify those functions and offices within an organisation that will require a person to hold a personal licence when carrying them out. This section is not intended to require everyone performing any management office or operational function (as described above) to hold a personal licence. The Commission will decide what the appropriate licensing requirements are to be, either on an individual basis, or, where it is able to do so, according to classes of operating licence.
249. If an operator does not use a person holding an appropriate personal licence to perform an office or function identified by the Commission, it will breach a condition of its operating licence.
250. While this section provides the mechanism for operating licences to contain conditions about matters to be undertaken by a personal licence holder, it does not cover the process for obtaining a personal licence. That is set out at Part 6 of the Act.
251. *Subsection (9)* contains an exemption from the requirements of this section for clubs or miners' welfare institutes holding a bingo operating licence. Part 12 requires clubs or miners' welfare institutes which provide facilities for bingo that exceed a specified threshold in terms of stakes or prizes in any week, to obtain a bingo operating licence. Games played below this threshold are authorised by other provisions in Part 12. Officers of these associations are not required to hold personal licences in relation to their additional bingo operating licence, and this subsection exempts them accordingly.