

Gambling Bill

EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by the Department for Culture, Media and Sport, are published separately as HL Bill 19 – EN.

EUROPEAN CONVENTION ON HUMAN RIGHTS

The Lord McIntosh of Haringey has made the following statement under section 19(1)(a) of the Human Rights Act 1998:

In my view the provisions of the Gambling Bill are compatible with the Convention rights.

Gambling Bill

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A
B I L L

TO

Make provision about gambling.

BE IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART 1

INTERPRETATION OF KEY CONCEPTS

Principal concepts

1 The licensing objectives

- In this Act a reference to the licensing objectives is a reference to the objectives of—
- (a) preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime,
 - (b) ensuring that gambling is conducted in a fair and open way, and
 - (c) protecting children and other vulnerable persons from being harmed or exploited by gambling.
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2 Licensing authorities

- (1) For the purposes of this Act the following are licensing authorities—
- (a) in relation to England—
 - (i) a district council,
 - (ii) a county council for a county in which there are no district councils,
 - (iii) a London borough council,
 - (iv) the Common Council of the City of London, and
 - (v) the Council of the Isles of Scilly,
 - (b) in relation to Wales—
 - (i) a county council, and
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- (ii) a county borough council, and
 - (c) in relation to Scotland, a licensing board constituted under section 1 of the Licensing (Scotland) Act 1976 (c. 66).
- (2) For the purposes of Schedule 13, the Sub-Treasurer of the Inner Temple and the Under-Treasurer of the Middle Temple are licensing authorities. 5

3 Gambling

In this Act “gambling” means –

- (a) gaming (within the meaning of section 6),
- (b) betting (within the meaning of section 9), and
- (c) participating in a lottery (within the meaning of section 14 and subject to section 15). 10

4 Remote gambling

- (1) In this Act “remote gambling” means gambling in which persons participate by the use of remote communication.
- (2) In this Act “remote communication” means communication using – 15
- (a) the internet,
 - (b) telephone,
 - (c) television,
 - (d) radio, or
 - (e) any other kind of electronic or other technology for facilitating communication. 20
- (3) The Secretary of State may by regulations provide that a specified system or method of communication is or is not to be treated as a form of remote communication for the purposes of this Act (and subsection (2) is subject to any regulations under this subsection). 25

5 Facilities for gambling

- (1) For the purposes of this Act a person provides facilities for gambling if he –
- (a) invites others to gamble in accordance with arrangements made by him,
 - (b) provides, operates or administers arrangements for gambling by others, or 30
 - (c) participates in the operation or administration of gambling by others.
- (2) But a person does not provide facilities for gambling for the purposes of this Act by virtue only of –
- (a) providing an article other than a gaming machine to a person who intends to use it, or may use it, in the course of any of the activities mentioned in subsection (1)(a) to (c), 35
 - (b) providing, otherwise than in the course of providing, operating or administering arrangements for gambling or participating in the operation or administration of gambling, an article to a person who intends to use it, or may use it, for gambling, or 40
 - (c) making facilities for remote communication available for use by –
 - (i) persons carrying on any of those activities, or

- (ii) persons gambling in response to or in accordance with any of those activities.
- (3) A person provides facilities for gambling (despite subsection (2)(c)) if—
 - (a) he makes facilities for remote communication available for use, and
 - (b) the facilities are adapted or presented in such a way as to facilitate, or to draw attention to the possibility of, their use for gambling.

Gaming

6 Gaming & game of chance

- (1) In this Act “gaming” means playing a game of chance for a prize.
- (2) In this Act “game of chance”—
 - (a) includes—
 - (i) a game that involves both an element of chance and an element of skill,
 - (ii) a game that involves an element of chance that can be eliminated by superlative skill, and
 - (iii) a game that is presented as involving an element of chance, but
 - (b) does not include a sport.
- (3) For the purposes of this Act a person plays a game of chance if he participates in a game of chance—
 - (a) whether or not there are other participants in the game, and
 - (b) whether or not a computer generates images or data taken to represent the actions of other participants in the game.
- (4) For the purposes of this Act a person plays a game of chance for a prize—
 - (a) if he plays a game of chance and thereby acquires a chance of winning a prize, and
 - (b) whether or not he risks losing anything at the game.
- (5) In this Act “prize” in relation to gaming (except in the context of a gaming machine)—
 - (a) means money or money’s worth, and
 - (b) includes both a prize provided by a person organising gaming and winnings of money staked.
- (6) The Secretary of State may by regulations provide that a specified activity, or an activity carried on in specified circumstances, is or is not to be treated for the purposes of this Act as—
 - (a) a game;
 - (b) a game of chance;
 - (c) a sport.

7 Casino

- (1) For the purposes of this Act a casino is an arrangement whereby people are given an opportunity to participate in one or more casino games.
- (2) In this Act “casino game” means a game of chance which is not equal chance gaming.

- (3) But the Secretary of State may by regulations provide that a specified activity, or an activity carried on in specified circumstances, is to be or not to be treated as a casino game for the purposes of this Act (and subsection (2) is subject to regulations under this subsection).
- (4) For the purposes of this section it is immaterial – 5
- (a) whether an arrangement is provided on one set of premises or on more than one;
 - (b) whether an arrangement is provided wholly or partly by means of remote communication.
- (5) The Secretary of State shall make regulations by reference to which any casino may be classified as – 10
- (a) a regional casino,
 - (b) a large casino,
 - (c) a small casino, or
 - (d) below the minimum size for a licensed casino. 15
- (6) Regulations under subsection (5) may make provision by reference to –
- (a) the number of gaming tables used or designated for the playing of specified casino games or classes of casino game,
 - (b) the location of gaming tables used or designated for the playing of specified casino games or classes of casino game, 20
 - (c) the concentration of gaming tables used or designated for the playing of specified casino games or classes of casino game,
 - (d) the floor area used or designated for a specified purpose,
 - (e) any combination of the matters listed in paragraph (a) to (d), or
 - (f) any other matter. 25
- (7) Regulations under subsection (5) may –
- (a) include provision for determining what floor area is to be treated as being used or designated for a purpose;
 - (b) include provision for determining what activities do or do not amount to the playing of a specified casino game or class of casino game; 30
 - (c) include provision for determining what is or is not to be treated as a gaming table (and, in particular, in what circumstances a number of tables are to be treated as if they were a single gaming table);
 - (d) provide that a gaming table is to be treated as being used or designated only if specified conditions (which may, in particular, relate to purpose of use, extent of use or circumstances of use) are satisfied. 35

8 Equal chance gaming

- (1) For the purposes of this Act gaming is equal chance gaming if –
- (a) it does not involve playing or staking against a bank, and
 - (b) the chances are equally favourable to all participants. 40
- (2) For the purposes of subsection (1) it is immaterial –
- (a) how a bank is described, and
 - (b) whether or not a bank is controlled or administered by a player.

Betting

9 Betting: general

- (1) In this Act “betting” means making or accepting a bet on –
 - (a) the outcome of a race, competition or other event or process,
 - (b) the likelihood of anything occurring or not occurring, or
 - (c) whether anything is or is not true.5
- (2) A transaction that relates to the outcome of a race, competition or other event or process may be a bet within the meaning of subsection (1) despite the facts that –
 - (a) the race, competition, event or process has already occurred or been completed, and
 - (b) one party to the transaction knows the outcome.10
- (3) A transaction that relates to the likelihood of anything occurring or not occurring may be a bet within the meaning of subsection (1) despite the facts that –
 - (a) the thing has already occurred or failed to occur, and
 - (b) one party to the transaction knows that the thing has already occurred or failed to occur.15

10 Spread bets, &c.

- (1) For the purposes of section 9(1) “bet” does not include a bet the making or accepting of which is a regulated activity within the meaning of section 22 of the Financial Services and Markets Act 2000 (c. 8). 20
- (2) An order under section 22 of that Act which has the effect that a class of bet becomes or ceases to be a regulated activity may, in particular, include transitional provision relating to the application of this Act to that class of bet. 25
- (3) This section is subject to section 37(3).

11 Betting: prize competitions

- (1) For the purposes of section 9(1) a person makes a bet (despite the fact that he does not deposit a stake in the normal way of betting) if –
 - (a) he participates in an arrangement in the course of which participants are required to guess any of the matters specified in section 9(1)(a) to (c),
 - (b) he is required to pay to participate, and
 - (c) if his guess is accurate, or more accurate than other guesses, he is to –
 - (i) win a prize, or
 - (ii) enter a class among whom one or more prizes are to be allocated (whether or not wholly by chance).30
- (2) In subsection (1) a reference to guessing includes a reference to predicting using skill or judgment. 35
- (3) Schedule 1 makes further provision about when a person is to be or not to be treated for the purposes of subsection (1)(b) as being required to pay to participate in an arrangement. 40

- (4) In subsection (1)(c)(i) “prize” includes any money, articles or services –
- (a) whether or not described as a prize, and
 - (b) whether or not consisting wholly or partly of money paid, or articles or services provided, by the members of the class among whom the prizes are allocated.
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12 Pool betting

- (1) For the purposes of this Act betting is pool betting if made on terms that all or part of winnings –
- (a) shall be determined by reference to the aggregate of stakes paid or agreed to be paid by the persons betting, 10
 - (b) shall be divided among the winners, or
 - (c) shall or may be something other than money.
- (2) For the purposes of this Act pool betting is horse-race pool betting if it relates to horse-racing in Great Britain.

13 Betting intermediary 15

- (1) In this Act “betting intermediary” means a person who provides a service designed to facilitate the making or acceptance of bets between others.
- (2) For the purposes of this Act acting as a betting intermediary is providing facilities for betting.

Lottery 20

14 Lottery

- (1) For the purposes of this Act an arrangement is a lottery, irrespective of how it is described, if it satisfies one of the descriptions of lottery in subsections (2) and (3).
- (2) An arrangement is a simple lottery if – 25
- (a) persons are required to pay in order to participate in the arrangement,
 - (b) in the course of the arrangement one or more prizes are allocated to one or more members of a class, and
 - (c) the prizes are allocated by a process which relies wholly on chance.
- (3) An arrangement is a complex lottery if – 30
- (a) persons are required to pay in order to participate in the arrangement,
 - (b) in the course of the arrangement one or more prizes are allocated to one or more members of a class,
 - (c) the prizes are allocated by a series of processes, and
 - (d) the first of those processes relies wholly on chance. 35
- (4) In this Act “prize” in relation to lotteries includes any money, articles or services –
- (a) whether or not described as a prize, and
 - (b) whether or not consisting wholly or partly of money paid, or articles or services provided, by the members of the class among whom the prize is allocated. 40

- (5) A process which requires persons to exercise skill or judgment or to display knowledge shall be treated for the purposes of this section as relying wholly on chance if the requirement neither –
 - (a) prevents a significant proportion of persons who participate in the arrangement of which the process forms part from receiving a prize, nor 5
 - (b) prevents a significant proportion of persons who wish to participate in that arrangement from doing so.
- (6) Schedule 2 makes further provision about when an arrangement is to be or not to be treated for the purposes of this section as requiring persons to pay. 10
- (7) The Secretary of State may by regulations provide that an arrangement of a specified kind is to be or not to be treated as a lottery for the purposes of this Act; and –
 - (a) the power in this subsection is not constrained by subsections (1) to (6) or Schedule 2, and 15
 - (b) regulations under this subsection may amend other provisions of this section or Schedule 2.

15 National Lottery

- (1) Participating in a lottery which forms part of the National Lottery is not gambling for the purposes of this Act (despite section 3(c) but subject to subsections (2) to (4) below). 20
- (2) Participating in a lottery which forms part of the National Lottery is gambling for the purposes of –
 - (a) section 41, and
 - (b) section 329. 25
- (3) Where participating in a lottery which forms part of the National Lottery would also constitute gaming within the meaning of section 6, it shall be treated as gaming for the purposes of this Act if and only if a person participating in the lottery is required to participate in, or to be successful in, more than three processes before becoming entitled to a prize. 30
- (4) Participating in a lottery which forms part of the National Lottery shall not be treated as betting for the purposes of this Act where it would –
 - (a) satisfy the definition of pool betting in section 12, or
 - (b) satisfy the definition of betting in section 9 by virtue of section 11.
- (5) Schedule 3 shall have effect. 35

Cross-category activities

16 Betting and gaming

- (1) This section applies to a transaction which satisfies –
 - (a) the definition of betting in section 9, and
 - (b) the definition of gaming in section 6. 40
- (2) A transaction to which this section applies which is pool betting (within the meaning of section 12) shall be treated for the purposes of this Act as betting (and not as gaming).

- (3) Any other transaction to which this section applies shall be treated for the purposes of this Act as gaming (and not as betting).
- (4) This section is subject to regulations under section 6(6).

17 Lotteries and gaming

- (1) This section applies to an arrangement which satisfies – 5
 (a) the definition of a game of chance in section 6, and
 (b) the definition of a lottery in section 14.
- (2) An arrangement to which this section applies shall be treated for the purposes of this Act as a game of chance (and not as a lottery) if a person who pays in order to join the class amongst whose members prizes are allocated is required to participate in, or to be successful in, more than three processes before becoming entitled to a prize. 10
- (3) An arrangement to which this section applies shall, subject to subsection (2), be treated for the purposes of this Act as a lottery (and not as a game of chance) if – 15
 (a) it satisfies paragraph 1(1)(a) and (b) of Schedule 11,
 (b) it satisfies paragraph 9(1)(a) and (b) of Schedule 11,
 (c) it satisfies paragraph 10(1)(a) and (b) of Schedule 11,
 (d) it satisfies paragraph 11(1)(a) and (b) of Schedule 11,
 (e) it satisfies paragraph 20(1)(a) and (b) of Schedule 11, 20
 (f) it satisfies paragraph 30(1)(a) and (b) of Schedule 11, or
 (g) it is promoted in reliance on a lottery operating licence.
- (4) Any other arrangement to which this section applies shall be treated for the purposes of this Act as a game of chance (and not as a lottery).
- (5) This section is subject to regulations under section 6(6) or 14(7). 25

18 Lotteries and betting

- (1) This section applies to a transaction which satisfies the definition of participating in a lottery in section 14 and also – 30
 (a) satisfies the definition of pool betting in section 12, or
 (b) satisfies the definition of betting in section 9 by virtue of section 11.
- (2) A transaction to which this section applies shall be treated for the purposes of this Act as participating in a lottery (and not as betting) if – 35
 (a) it satisfies paragraph 1(1)(a) and (b) of Schedule 11,
 (b) it satisfies paragraph 9(1)(a) and (b) of Schedule 11,
 (c) it satisfies paragraph 10(1)(a) and (b) of Schedule 11,
 (d) it satisfies paragraph 11(1)(a) and (b) of Schedule 11,
 (e) it satisfies paragraph 20(1)(a) and (b) of Schedule 11,
 (f) it satisfies paragraph 30(1)(a) and (b) of Schedule 11, or
 (g) it is promoted in reliance on a lottery operating licence.
- (3) Any other transaction to which this section applies shall be treated for the purposes of this Act as betting (and not as participating in a lottery). 40
- (4) This section is subject to regulations under section 14(7).

Miscellaneous

19 Non-commercial society

- (1) For the purposes of this Act a society is non-commercial if it is established and conducted –
 - (a) for charitable purposes, 5
 - (b) for the purpose of enabling participation in, or of supporting, sport, athletics or a cultural activity, or
 - (c) for any other non-commercial purpose other than that of private gain.
- (2) In subsection (1) “charitable purposes” means –
 - (a) in relation to England and Wales, purposes which are exclusively charitable according to the law of England and Wales, and 10
 - (b) in relation to Scotland, purposes which are charitable purposes only (that expression having the same meaning as in the Income Tax Acts).
- (3) The provision of a benefit to one or more individuals is not a provision for the purpose of private gain for the purposes of this Act if made in the course of the activities of a society that is a non-commercial society by virtue of subsection (1)(a) or (b). 15

PART 2

THE GAMBLING COMMISSION

20 Establishment of the Commission

20

- (1) There shall be a body corporate to be known as the Gambling Commission.
- (2) Schedule 4 (which makes provision about the constitution and proceedings of the Commission) shall have effect.

21 Gaming Board: transfer to Commission

- (1) Section 10 of and Schedule 1 to the Gaming Act 1968 (c. 65) (Gaming Board for Great Britain) shall cease to have effect. 25
- (2) The functions, rights and liabilities of the Gaming Board for Great Britain shall on commencement become functions, rights and liabilities of the Gambling Commission.
- (3) The persons who immediately before commencement are the members of the Gaming Board for Great Britain shall be treated as if on commencement they were appointed as commissioners of the Gambling Commission under paragraph 1 of Schedule 4 to this Act. 30
- (4) The person who immediately before commencement is the chairman of the Gaming Board for Great Britain shall be treated as if on commencement he were appointed as the chairman of the Gambling Commission under paragraph 1 of Schedule 4 to this Act. 35
- (5) In this section “commencement” means the coming into force of this section.

- (6) Schedule 5 (which makes supplementary provision in relation to the transfer of functions and property from the Gaming Board to the Gambling Commission) shall have effect.

22 Duty to promote the licensing objectives

- In exercising its functions under this Act the Commission shall aim – 5
- (a) to pursue, and wherever appropriate to have regard to, the licensing objectives, and
 - (b) to permit gambling, in so far as the Commission thinks it reasonably consistent with pursuit of the licensing objectives.

23 Policy for licensing and regulation 10

- (1) The Commission shall prepare a statement setting out the principles to be applied by it in exercising its functions under this Act.
- (2) The statement under this section shall, in particular, explain how the principles to be applied are expected to assist the Commission in its pursuit of the licensing objectives. 15
- (3) The Commission shall –
 - (a) review the statement from time to time, and
 - (b) revise the statement when the Commission thinks it appropriate.
- (4) The Commission shall as soon as is reasonably practicable publish – 20
 - (a) the statement, and
 - (b) any revision.
- (5) Before issuing or revising a statement under this section the Commission shall consult –
 - (a) the Secretary of State,
 - (b) Her Majesty’s Commissioners of Customs and Excise, 25
 - (c) one or more persons who appear to the Commission to represent local authorities,
 - (d) one or more persons who appear to the Commission to represent chief constables of police forces,
 - (e) one or more persons who appear to the Commission to represent the interests of persons carrying on gambling businesses, 30
 - (f) one or more persons who appear to the Commission to have knowledge about social problems relating to gambling, and
 - (g) to such extent and in such manner as the Commission thinks appropriate, members of the public. 35

24 Codes of practice

- (1) The Commission shall issue one or more codes of practice about the manner in which facilities for gambling are provided (whether by the holder of a licence under this Act or by another person).
- (2) In particular, a code shall describe arrangements that should be made by a person providing facilities for gambling for the purposes of – 40
 - (a) ensuring that gambling is conducted in a fair and open way,

-
- (b) protecting children and other vulnerable persons from being harmed or exploited by gambling, and
 - (c) making assistance available to persons who are or may be affected by problems related to gambling.
 - (3) A code may include provision about how facilities for gambling are advertised or described. 5
 - (4) A code may be revised or revoked by the Commission.
 - (5) A code, and any revision, must state when it comes into force.
 - (6) The Commission shall publish a code and any revision in a manner which the Commission thinks likely to bring it to the attention of those whose activities it concerns. 10
 - (7) The Commission may make different provision under this section for different cases or circumstances (whether or not by way of separate codes of practice).
 - (8) A failure to comply with a provision of a code shall not of itself make a person liable to criminal or civil proceedings; but this subsection is subject to any provision of or by virtue of this Act making an exception to an offence dependent on compliance with a code. 15
 - (9) But a code –
 - (a) shall be admissible in evidence in criminal or civil proceedings,
 - (b) shall be taken into account by a court or tribunal in any case in which it appears to the court or tribunal to be relevant, and 20
 - (c) shall be taken into account by the Commission in the exercise of a function under this Act.
 - (10) Before issuing or revising a code under this section the Commission shall consult – 25
 - (a) the Secretary of State,
 - (b) Her Majesty’s Commissioners of Customs and Excise,
 - (c) one or more persons who appear to the Commission to represent the interests of persons who –
 - (i) carry on gambling businesses, and 30
 - (ii) are likely to be affected by the code or revision,
 - (d) one or more persons who appear to the Commission to have knowledge about social problems relating to gambling, and
 - (e) in the case of a code including provision by virtue of subsection (3), one or more persons who appear to the Commission to have a relevant responsibility for regulating the advertising industry. 35
 - (11) Before issuing or revising a code under this section the Commission shall also consult, if and to the extent that the Commission thinks appropriate having regard to the nature of the code or revision –
 - (a) one or more persons who appear to the Commission to represent local authorities, 40
 - (b) one or more persons who appear to the Commission to represent chief constables of police forces,
 - (c) one or more persons who appear to the Commission to represent the interests of persons carrying on gambling businesses (apart from those consulted under subsection (10)(c)), and 45

- (d) in such manner as the Commission thinks appropriate, members of the public.

25 Guidance to local authorities

- (1) The Commission shall from time to time issue guidance as to –
- (a) the manner in which local authorities are to exercise their functions under this Act, and 5
 - (b) in particular, the principles to be applied by local authorities in exercising functions under this Act.
- (2) A local authority shall have regard to guidance issued under subsection (1).
- (3) The Commission shall publish guidance issued under subsection (1). 10
- (4) Before issuing guidance under subsection (1) the Commission shall consult –
- (a) the Secretary of State,
 - (b) Her Majesty’s Commissioners of Customs and Excise,
 - (c) the Scottish Ministers,
 - (d) one or more persons who appear to the Commission to represent local authorities, 15
 - (e) one or more persons who appear to the Commission to represent the interests of persons carrying on gambling businesses, and
 - (f) one or more persons who appear to the Commission to have knowledge about social problems relating to gambling. 20
- (5) Before issuing guidance under subsection (1) the Commission shall also consult, if and to the extent that the Commission thinks appropriate having regard to the nature of the guidance –
- (a) one or more persons who appear to the Commission to represent chief constables of police forces, and 25
 - (b) in such manner as the Commission thinks appropriate, members of the public.
- (6) In this section “local authority” means –
- (a) in relation to England –
 - (i) a district council, 30
 - (ii) a county council for a county in which there are no district councils,
 - (iii) a London borough council,
 - (iv) the Common Council of the City of London, and
 - (v) the Council of the Isles of Scilly, 35
 - (b) in relation to Wales –
 - (i) a county council, and
 - (ii) a county borough council, and
 - (c) in relation to Scotland, a licensing board constituted under section 1 of the Licensing (Scotland) Act 1976 (c. 66). 40

26 Duty to advise Secretary of State

- (1) The Commission shall give advice to the Secretary of State about –
- (a) the incidence of gambling,
 - (b) the manner in which gambling is carried on,

- (c) the effects of gambling, and
 - (d) the regulation of gambling.
- (2) Advice under this section shall be given—
 - (a) in response to a request from the Secretary of State, and
 - (b) on such other occasions as the Commission thinks appropriate. 5
- (3) The Commission shall send a copy of any advice under this section to the Scottish Ministers.

27 Investigation and prosecution of offences

- (1) The Commission—
 - (a) may investigate whether an offence has been committed under this Act, and 10
 - (b) may institute criminal proceedings in respect of an offence under this Act.
- (2) The power in subsection (1)(a) may be exercised whether in response to information received by the Commission or otherwise. 15
- (3) Subsection (1)(b) shall not apply in relation to the institution of proceedings in Scotland.

28 Licensing authority information

- (1) The Commission may require a licensing authority to provide information that— 20
 - (a) forms part of a register maintained by the authority under this Act, or
 - (b) is in the possession of the authority in connection with a provision of this Act.
- (2) A requirement under subsection (1) may include a requirement for information to be— 25
 - (a) compiled or collated in a specified manner;
 - (b) provided in a specified form.
- (3) A licensing authority shall comply with a requirement under this section.

29 Other exchange of information

- (1) The Commission may provide information received by it in the exercise of its functions to any of the persons or bodies listed in Schedule 6— 30
 - (a) for use in the exercise of the person's or body's functions, or
 - (b) for the purpose of a function of the Commission.
- (2) Any of the persons or bodies listed in Schedule 6 may provide to the Commission, for use in the exercise of its functions, information received by the person or body in the exercise of his or its functions. 35
- (3) Provision of information in reliance on this section may be subject to conditions (whether as to use, storage, disposal or otherwise).

30 Consultation with National Lottery Commission

- (1) If in the course of the exercise of its functions the Gambling Commission becomes aware of a matter about which the National Lottery Commission is likely to have an opinion, the Gambling Commission shall consult the National Lottery Commission. 5
- (2) The Gambling Commission shall comply with any direction of the Secretary of State (which may be general or specific) to consult the National Lottery Commission.

31 Consultation with Commissioners of Customs and Excise

- (1) If in the course of the exercise of its functions the Gambling Commission becomes aware of a matter about which the Commissioners of Customs and Excise are likely to have an opinion, the Gambling Commission shall consult the Commissioners of Customs and Excise. 10
- (2) The Gambling Commission shall comply with any direction of the Secretary of State (which may be general or specific) to consult the Commissioners of Customs and Excise. 15

PART 3

GENERAL OFFENCES

*Provision of facilities for gambling***32 Provision of facilities for gambling**

- (1) A person commits an offence if he provides facilities for gambling unless – 20
- (a) an exception provided for in subsection (2) or (3) applies, or
 - (b) an exception provided for by any of the following provisions applies –
 - (i) sections 33 and 34,
 - (ii) sections 264 and 266 (clubs and miners' welfare institutes), 25
 - (iii) section 274 (premises with alcohol licence),
 - (iv) sections 284, 285 and 287 (prize gaming),
 - (v) section 291 (private gaming and betting), and
 - (vi) section 293 (non-commercial gaming).
- (2) Subsection (1) does not apply to any activity by a person if – 30
- (a) he holds an operating licence authorising the activity, and
 - (b) the activity is carried on in accordance with the terms and conditions of the licence.
- (3) Subsection (1) does not apply to any activity by a person if – 35
- (a) he acts in the course of a business carried on by a person who holds an operating licence authorising the activity, and
 - (b) the activity is carried on in accordance with the terms and conditions of the licence.
- (4) A person guilty of an offence under this section shall be liable on summary conviction to – 40
- (a) imprisonment for a term not exceeding 51 weeks,

- (b) a fine not exceeding level 5 on the standard scale, or
 - (c) both.
 - (5) In the application of subsection (4) to Scotland the reference to 51 weeks shall have effect as a reference to six months.
- 33 Exception: lotteries** 5
- Section 32 shall not apply to the provision of facilities for a lottery.
- 34 Exception: gaming machines**
- Section 32 shall not apply to making a gaming machine available for use.
- 35 Territorial application**
- (1) For the purposes of section 32 it is immaterial whether facilities are provided – 10
 - (a) wholly or partly by means of remote communication;
 - (b) subject to subsections (2) and (3), inside the United Kingdom, outside the United Kingdom, or partly inside and partly outside.
 - (2) Section 32 applies to the provision of facilities for non-remote gambling only if anything done in the course of the provision of the facilities is done in Great Britain. 15
 - (3) Section 32 applies to the provision of facilities for remote gambling only if at least one piece of remote gambling equipment used in the provision of the facilities is situated in Great Britain (but whether or not the facilities are provided for use wholly or partly in the United Kingdom). 20
 - (4) In this Act “remote gambling equipment” means, subject to subsection (5), electronic or other equipment used by or on behalf of a person providing facilities for remote gambling – 25
 - (a) to register a person’s participation in the gambling,
 - (b) to present, to persons who are participating or may participate in the gambling, a virtual game, virtual race or other virtual event or process by reference to which the gambling is conducted,
 - (c) to determine all or part of a result or of the effect of a result, or
 - (d) to accept payment in respect of gambling.
 - (5) In this Act “remote gambling equipment” does not include a computer which – 30
 - (a) is used by a person to take advantage of remote gambling facilities provided by another person, and
 - (b) is not provided by that other person.
- Use of premises* 35
- 36 Use of premises**
- (1) A person commits an offence if he uses premises, or causes or permits premises to be used, to – 40
 - (a) operate a casino,
 - (b) provide facilities for the playing of bingo,

- (c) make a gaming machine available for use,
 - (d) provide other facilities for gaming, or
 - (e) provide facilities for betting (whether by making or accepting bets, by acting as a betting intermediary or by providing other facilities for the making or accepting of bets). 5
- (2) Subsection (1) does not apply in relation to the use of premises by a person if the use is authorised by a premises licence held by him.
- (3) Subsection (1) does not apply in relation to the use of premises by a person if he acts in the course of a business carried on by another person who holds a premises licence authorising the use. 10
- (4) Subsection (1) does not apply in relation to the use of a track by a person for accepting bets if the use is authorised by a premises licence (whether or not held by him).
- (5) Subsection (1) does not apply in relation to the use of a casino for the provision of facilities for bingo or betting in accordance with an authorisation under section 172(3). 15
- (6) Subsection (1) does not apply in relation to the use of premises to provide facilities which are to be used only by persons who –
 - (a) are acting in the course of a business, or
 - (b) are not on the premises. 20
- (7) Other exceptions to subsection (1) are provided in –
 - (a) sections 38 and 39,
 - (b) section 208 (temporary use notice),
 - (c) sections 241, 242 and 243 (gaming machines),
 - (d) sections 264, 266 and 268 (clubs and miners’ welfare institutes), 25
 - (e) sections 274, 277 and 278 (premises with alcohol licence),
 - (f) section 281 (travelling fairs),
 - (g) sections 284, 285 and 287 (prize gaming),
 - (h) section 291 (private gaming and betting), and
 - (i) section 293 (non-commercial gaming). 30
- (8) A person guilty of an offence under this section 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. 35
- (9) In the application of subsection (8) to Scotland the reference to 51 weeks shall have effect as a reference to six months.

37 Power to amend section 36

- (1) The Secretary of State may by order amend section 36(1) so as to –
 - (a) add a gambling activity, 40
 - (b) remove a gambling activity, or
 - (c) vary the entry for a gambling activity.
- (2) In subsection (1) “gambling activity” means an activity that is –
 - (a) a kind of gambling, or

- (b) the provision of facilities for a kind of gambling.
 - (3) In particular, an order under subsection (1) may have the effect of applying section 36(1) to betting of the kind referred to in section 10(1) subject to any specified exceptions.
 - (4) An order under subsection (1) may, in particular, make consequential amendment of –
 - (a) section 148;
 - (b) another provision of Part 8;
 - (c) any provision of this Act, or of another enactment, that relates to Part 8.
- 38 Exception: occasional use notice** 10
- (1) A person who accepts bets on a track, or who causes or permits premises to be used for the acceptance of bets, does not commit an offence under section 36 if –
 - (a) a notice has been given under this section in respect of the track, and
 - (b) the activity is carried on in accordance with the notice. 15
 - (2) A notice under this section (an “occasional use notice”) in respect of a track may be given only by a person who is –
 - (a) responsible for the administration of events on the track, or
 - (b) an occupier of the track.
 - (3) An occasional use notice must – 20
 - (a) be given in writing to the licensing authority for any area in which the track is wholly or partly situated, and
 - (b) be copied to either –
 - (i) in England and Wales, the chief officer of police for any area in which the track is wholly or partly situated, or 25
 - (ii) in Scotland, the chief constable of the police force maintained for the police area comprising that area.
 - (4) An occasional use notice must specify a day on which it has effect.
 - (5) An occasional use notice may not be given in respect of a track for a day in a calendar year if eight occasional use notices have been given in respect of that track for days in that year. 30
 - (6) In this section –
 - (a) “chief officer of police” has the meaning given by section 101(1) of the Police Act 1996 (c. 16), and
 - (b) a reference to a chief officer’s area is a reference to the area in respect of which he has responsibility under that Act. 35
 - (7) The Secretary of State may by order amend subsection (5) so as to substitute a different maximum number of occasional use notices for a calendar year.
 - (8) An order under subsection (7) increasing the maximum number of occasional use notices for a calendar year may also make provision prohibiting the giving of a temporary use notice in a calendar year in respect of premises if a specified number of occasional use notices have been given in respect of the premises in that year. 40

39 Exception: football pools

- (1) A person does not commit an offence under section 36 if he uses premises to do anything in accordance with an authorisation under section 91(3).
- (2) The Secretary of State may make regulations disapplying subsection (1) to specified classes of premises. 5

*Miscellaneous offences***40 Gambling software**

- (1) A person commits an offence if in the course of a business he manufactures, supplies, installs or adapts gambling software unless he acts in accordance with an operating licence. 10
- (2) In this Act “gambling software” –
- (a) means computer software for use in connection with remote gambling, but
 - (b) does not include anything for use solely in connection with a gaming machine. 15
- (3) A person guilty of an offence under this section 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. 20
- (4) In the application of subsection (3) to Scotland the reference to 51 weeks shall have effect as a reference to six months.

41 Cheating

- (1) A person commits an offence if he –
- (a) cheats at gambling, or 25
 - (b) does anything for the purpose of enabling or assisting another person to cheat at gambling.
- (2) For the purposes of subsection (1) it is immaterial whether a person who cheats –
- (a) improves his chances of winning anything, or 30
 - (b) wins anything.
- (3) Without prejudice to the generality of subsection (1) cheating at gambling may, in particular, consist of actual or attempted deception or interference in connection with –
- (a) the process by which gambling is conducted, or 35
 - (b) a real or virtual game, race or other event or process to which gambling relates.
- (4) A person guilty of an offence under this section shall be liable –
- (a) on conviction on indictment, to imprisonment for a term not exceeding two years, to a fine or to both, or 40
 - (b) on summary conviction, to imprisonment for a term not exceeding 51 weeks, to a fine not exceeding the statutory maximum or to both.

- (5) In the application of subsection (4) to Scotland the reference to 51 weeks shall have effect as a reference to six months.
- (6) Section 17 of the Gaming Act 1845 (c. 109) (winning by cheating) shall cease to have effect.

42 Chain-gift schemes 5

- (1) A person commits an offence if he –
 - (a) invites another to join a chain-gift scheme, or
 - (b) knowingly participates in the promotion, administration or management of a chain-gift scheme.
- (2) An arrangement is a “chain-gift” scheme if – 10
 - (a) in order to participate in the arrangement a person must make a payment to one or more other participants (a “joining fee”), and
 - (b) each person who participates in the arrangement –
 - (i) is required or invited to invite others to participate, and
 - (ii) is encouraged to believe that he will receive the joining fees, or part of the joining fees, of other participants, to an amount in excess of the joining fee paid by him. 15
- (3) For the purposes of subsection (2) –
 - (a) “payment” means a payment of money or money’s worth, but does not include the provision of goods or services, and 20
 - (b) it is immaterial whether a payment is made directly or through a person responsible for managing or administering the scheme.
- (4) A person guilty of an offence under this section shall be liable on summary conviction to –
 - (a) imprisonment for a period not exceeding 51 weeks, 25
 - (b) a fine not exceeding level 5 on the standard scale, or
 - (c) both.
- (5) In the application of subsection (4) to Scotland the reference to 51 weeks shall have effect as a reference to six months.

43 Provision of unlawful facilities abroad 30

- (1) A person commits an offence if he does anything in Great Britain, or uses remote gambling equipment situated in Great Britain, for the purpose of inviting or enabling a person in a prohibited territory to participate in remote gambling.
- (2) In subsection (1) “prohibited territory” means a country or place designated for the purpose of this section by order made by the Secretary of State. 35
- (3) An order under subsection (2) shall prescribe the mode of trial and maximum penalty for an offence under subsection (1).

PART 4

PROTECTION OF CHILDREN AND YOUNG PERSONS

*Interpretation***44 Meaning of “child” and “young person”**

- (1) In this Act “child” means an individual who is less than 16 years old. 5
- (2) In this Act “young person” means an individual who is not a child but who is less than 18 years old.

*Principal offences***45 Invitation to gamble**

- (1) A person commits an offence if he invites, causes or permits a child or young person to gamble. 10
- (2) But subsection (1) does not apply in relation to –
- (a) participation in private or non-commercial gaming,
 - (b) participation in private or non-commercial betting,
 - (c) participation in a lottery, 15
 - (d) participation in football pools,
 - (e) the use of a Category D gaming machine,
 - (f) participation in equal chance gaming in accordance with a prize gaming permit,
 - (g) participation in equal chance gaming at a licensed family entertainment centre, 20
 - (h) participation in prize gaming at a non-licensed family entertainment centre, or
 - (i) participation in prize gaming at a travelling fair in accordance with section 287. 25
- (3) In subsection (1) a reference to inviting a child or young person to gamble includes, in particular, a reference to intentionally –
- (a) sending to a child or young person any document which advertises gambling, or
 - (b) bringing to the attention of a child or young person information about gambling with a view to encouraging the child or young person to gamble. 30
- (4) If a document which is sent to a child or young person and which advertises gambling gives the name or contact details of a person to whom payment may be made or from whom information may be obtained, that person shall be treated as having committed the offence under subsection (1) unless he proves that the document was sent –
- (a) without his consent, and
 - (b) without his authority. 35
- (5) If information about gambling is brought to the attention of a child or young person and includes the name or contact details of a person to whom payment 40

may be made or from whom information may be obtained, that person (“the advertiser”) shall be treated as having committed the offence under subsection (1) unless he proves that the information was brought to the attention of the child or young person –

- (a) without the advertiser’s consent or authority, or 5
 - (b) as an incident of the information being brought to the attention of adults and without a view to encouraging the child or young person to gamble.
- (6) In subsections (4) and (5) “contact details” means – 10
- (a) an address or other location,
 - (b) a telephone number,
 - (c) an internet site, or
 - (d) an email address.

46 Invitation to enter premises

- (1) A person commits an offence if he invites or permits a child or young person to enter premises if – 15
- (a) a casino premises licence has effect in respect of the premises, and
 - (b) the premises are being used in reliance on that licence when the child or young person is invited or permitted to enter.
- (2) But subsection (1) does not apply where – 20
- (a) a child or young person is permitted to enter a part of premises which are being used for a regional casino, and
 - (b) that part is not being used for the provision of facilities for gambling when the child or young person is invited or permitted to enter.
- (3) The Secretary of State may for the purposes of subsection (2) by regulations make provision for – 25
- (a) distinguishing between one part of premises and another;
 - (b) determining when use is being made of a part of premises.
- (4) A person commits an offence if he invites or permits a child or young person to enter premises other than a track if – 30
- (a) a betting premises licence has effect in respect of the premises, and
 - (b) the premises are being used in reliance on that licence when the child or young person is invited or permitted to enter.
- (5) A person commits an offence if he invites or permits a child or young person to enter premises if – 35
- (a) an adult gaming centre premises licence has effect in respect of the premises, and
 - (b) the premises are being used in reliance on that licence when the child or young person is invited or permitted to enter.
- (6) A person commits an offence if he invites or permits a child or young person to enter an area from which children and young persons are required to be excluded by virtue of section 177. 40
- (7) A person commits an offence if he invites or permits a child or young person to enter part of premises if –
- (a) the premises are a licensed family entertainment centre, 45

- (b) a person entering that part of the premises has access to a Category C gaming machine, and
- (c) at the time when the child or young person is permitted or invited to enter, a Category C gaming machine is being used or is available for use.

5

47 Gambling

- (1) A young person commits an offence if he gambles.
- (2) But subsection (1) does not apply to—
 - (a) participation in private or non-commercial gaming,
 - (b) participation in private or non-commercial betting, 10
 - (c) participation in a lottery,
 - (d) participation in football pools,
 - (e) the use of a Category D gaming machine,
 - (f) participation in equal chance gaming in accordance with a prize gaming permit, 15
 - (g) participation in equal chance gaming at a licensed family entertainment centre,
 - (h) participation in prize gaming at a non-licensed family entertainment centre, or
 - (i) participation in prize gaming at a travelling fair in accordance with section 287. 20

48 Entering premises

A young person commits an offence if he enters premises in circumstances where a person would commit an offence under section 46 if he invited or permitted the young person to enter. 25

49 Provision of facilities for gambling

- (1) A young person commits an offence if he provides facilities for gambling.
- (2) But subsection (1) does not apply to the provision of facilities in connection with—
 - (a) private or non-commercial gaming, 30
 - (b) private or non-commercial betting,
 - (c) a lottery,
 - (d) football pools, or
 - (e) prize gaming at a travelling fair in accordance with section 287.

Employment offences 35

50 Employment to provide facilities for gambling

- (1) A person commits an offence if he employs a child or young person to provide facilities for gambling.
- (2) But subsection (1) does not apply to the provision of facilities in connection with— 40

- (a) private or non-commercial gaming,
 - (b) private or non-commercial betting,
 - (c) a lottery,
 - (d) football pools, or
 - (e) prize gaming at a travelling fair in accordance with section 287. 5
- 51 Employment for lottery or football pools**
- A person commits an offence if he employs a child to provide facilities for gambling in connection with –
- (a) a lottery (other than a lottery which forms part of the National Lottery), or 10
 - (b) football pools.
- 52 Employment on bingo and club premises**
- A person commits an offence if he employs a child to perform any function on premises where, and at a time when –
- (a) facilities are provided for the playing of bingo, or 15
 - (b) facilities for gambling are provided in accordance with a club gaming permit or a club machine permit.
- 53 Employment on premises with gaming machines**
- (1) A person commits an offence if –
 - (a) he employs a child or young person to perform any function on premises where a Category A, B, C or D gaming machine is situated, and 20
 - (b) the child or young person is or may be required in the course of his employment to perform a function in connection with the gaming machine. 25
 - (2) A young person commits an offence if he is employed in contravention of subsection (1).
- 54 Employment in casino, &c.**
- (1) A person commits an offence if he employs a child or young person to perform any function on premises in respect of which any of the following have effect – 30
 - (a) a casino premises licence,
 - (b) a betting premises licence, and
 - (c) an adult gaming centre premises licence.
 - (2) But subsection (1) does not apply –
 - (a) to employment at a time when no activity is being carried on in reliance on the premises licence, or 35
 - (b) to employment on a part of premises which are being used for a regional casino at a time when that part is not being used for the provision of facilities for gambling.
 - (3) The Secretary of State may for the purposes of subsection (2) by regulations make provision for – 40
 - (a) distinguishing between one part of premises and another;

- (b) determining when use is being made of a part of premises.
- (4) A young person commits an offence if he is employed in contravention of subsection (1).

Miscellaneous offences

- 55 Invitation to participate in lottery** 5
- (1) A person commits an offence if he invites, causes or permits a child to participate in a lottery other than—
- (a) an incidental non-commercial lottery that is exempt for the purposes of section 252 by virtue of Part 1 of Schedule 11,
 - (b) a private lottery (whether a private society lottery, a work lottery or a residents' lottery) that is exempt for the purposes of section 252 by virtue of Part 2 of Schedule 11, or 10
 - (c) a lottery which forms part of the National Lottery.
- (2) Subsections (3) to (6) of section 45 shall have effect in relation to subsection (1) of this section as they have effect in relation to subsection (1) of that section; and for that purpose— 15
- (a) references to a child or young person shall be treated as references only to a child, and
 - (b) references to gambling shall be treated as references to participation in a lottery. 20
- 56 Invitation to participate in football pools**
- (1) A person commits an offence if he invites, causes or permits a child to participate in football pools.
- (2) Subsections (3) to (6) of section 45 shall have effect in relation to subsection (1) of this section as they have effect in relation to subsection (1) of that section; and for that purpose— 25
- (a) references to a child or young person shall be treated as references only to a child, and
 - (b) references to gambling shall be treated as references to participation in football pools. 30
- 57 Return of stake**
- A person commits an offence if without reasonable excuse he fails to comply with a condition attached to an operating licence by virtue of section 81.
- 58 Age limit for Category D gaming machines**
- (1) The Secretary of State may by order create an offence of inviting, causing or permitting a child or young person below a specified age to use a Category D gaming machine. 35
- (2) An order under subsection (1) may, in particular — 40
- (a) apply (with modifications) or include provision similar to section 45(3) to (6);
 - (b) make consequential amendments of this Act.

General

59 Temporary use notice

- (1) For the purposes of this Part –
 - (a) a temporary use notice in respect of the use of premises to carry on an activity shall be treated as if it were a premises licence authorising that activity, and 5
 - (b) an occasional use notice in respect of premises shall be treated as if it were a betting premises licence.
- (2) Sections 177 and 46(6) shall apply in relation to a notice treated as a premises licence by virtue of subsection (1) above. 10

60 Meaning of employment

In this Part a reference to employing a person includes a reference to –

- (a) employing or engaging the person whether or not under a contract of employment, and
- (b) causing or permitting the person to be employed or engaged. 15

61 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 20
 - (c) both.
- (2) But in relation to an offence committed by a young person subsection (1) shall have effect as if –
 - (a) paragraphs (a) and (c) were omitted, and
 - (b) in paragraph (b) the reference to level 5 were a reference to level 3. 25
- (3) In the application of subsection (1) to Scotland the reference to 51 weeks shall have effect as a reference to six months.

62 Reasonable belief about person's age

- (1) Where a person is charged with an offence under this Part of doing anything in relation to an individual who is a child it is a defence for the person charged to prove that –
 - (a) he took all reasonable steps to determine the individual's age, and
 - (b) he reasonably believed that the individual was not a child. 30
- (2) Where a person is charged with an offence under this Part of doing anything in relation to an individual who is a young person it is a defence for the person charged to prove that –
 - (a) he took all reasonable steps to determine the individual's age, and
 - (b) he reasonably believed that the individual was not a young person. 35

PART 5

OPERATING LICENCES

*Introductory***63 Nature of licence**

- (1) The Commission may issue operating licences in accordance with the provisions of this Part. 5
- (2) An operating licence is a licence which states that it authorises the licensee –
- (a) to operate a casino (a “casino operating licence”),
 - (b) to provide facilities for playing bingo (a “bingo operating licence”),
 - (c) to provide facilities for betting other than pool betting (a “general betting operating licence”), 10
 - (d) to provide facilities for pool betting (a “pool betting operating licence”),
 - (e) to act as a betting intermediary (a “betting intermediary operating licence”),
 - (f) to make gaming machines available for use in an adult gaming centre (a “gaming machine general licence” for an adult gaming centre), 15
 - (g) to make gaming machines available for use in a family entertainment centre (a “gaming machine general licence” for a family entertainment centre),
 - (h) to manufacture, supply, install, adapt, maintain or repair a gaming machine, or a part of a gaming machine (a “gaming machine technical operating licence”), 20
 - (i) to manufacture, supply, install or adapt gambling software (a “gambling software licence”), or
 - (j) to promote a lottery (a “lottery operating licence”). 25
- (3) The issue of an operating licence does not affect the application of section 36.
- (4) The Secretary of State may by order amend subsection (2) so as to –
- (a) add a kind of operating licence,
 - (b) remove a kind of operating licence, or
 - (c) vary a kind of operating licence. 30
- (5) An order under subsection (4) may, in particular, make consequential amendment of this Part (or a provision of this Act or another enactment that relates to this Part).

64 Form of licence

- (1) An operating licence must specify – 35
- (a) the person to whom it is issued,
 - (b) the period during which it is to have effect, and
 - (c) any condition attached by the Commission under section 73 or 75.
- (2) The Secretary of State may by regulations require the Commission to ensure that an operating licence – 40
- (a) is issued in such form as the regulations may specify, and

- (b) contains, in addition to the matters specified in subsection (1), such information as the regulations may specify (which may, in particular, include information about conditions attached to the licence by virtue of section 76).

65 Remote gambling 5

- (1) An operating licence is a “remote operating licence” if it authorises activity to be carried on –
 - (a) in respect of remote gambling, or
 - (b) by means of remote communication.
- (2) A remote operating licence may not also authorise activity which is neither – 10
 - (a) in respect of remote gambling, nor
 - (b) carried on by means of remote communication.
- (3) An operating licence must state whether it is a remote operating licence or not.

66 Combined licence

- (1) An operating licence may be a licence of more than one of the kinds described in section 63(2). 15
- (2) Subsection (1) is subject to the following provisions of this section.
- (3) A casino operating licence authorises the holder, by virtue of this subsection, to provide facilities –
 - (a) for betting on the outcome of a virtual game, race, competition or other event or process, subject to any exclusion or restriction provided for by way of condition under section 73 or 75; 20
 - (b) for any game of chance other than bingo (and this paragraph does not prevent the combination of a casino operating licence and a bingo operating licence in reliance on subsection (1)). 25
- (4) A general betting operating licence authorises the holder, by virtue of this subsection, to provide facilities for betting on the outcome of a virtual race, competition or other event or process other than a game of chance, subject to any exclusion or restriction provided for by way of condition under section 73 or 75. 30
- (5) The following kinds of operating licence authorise the holder, by virtue of this subsection, to make one or more gaming machines within Categories A to D available for use (in addition to authorising the activities specified in accordance with section 63(2)) –
 - (a) a non-remote casino operating licence, 35
 - (b) a non-remote bingo operating licence,
 - (c) a non-remote general betting operating licence, and
 - (d) a non-remote pool betting operating licence.
- (6) No other kind of operating licence (other than a gaming machine general operating licence) may authorise the holder to make a gaming machine available for use. 40

*Issue***67 Application**

- (1) A person may apply to the Gambling Commission for an operating licence to be issued authorising him to provide facilities for gambling.
- (2) An application must – 5
- (a) specify the activities to be authorised by the licence,
 - (b) specify an address in the United Kingdom at which a document issued under this Act may be served on the applicant,
 - (c) be made in such form and manner as the Commission may direct,
 - (d) state whether the applicant has been convicted of a relevant offence, 10
 - (e) state whether the applicant has been convicted of any other offence,
 - (f) contain or be accompanied by such other information or documents as the Commission may direct, and
 - (g) be accompanied by the prescribed fee.
- (3) An application may not be made by – 15
- (a) a child or young person, or
 - (b) a group that includes a child or young person.
- (4) The Secretary of State may by regulations –
- (a) require an applicant for an operating licence to notify specified persons within a specified period (which may be wholly or partly before the application is made), and 20
 - (b) provide for the consequences of failure to comply with a requirement under paragraph (a) (which may, in particular, include provision for an application to be disregarded or for a licence to lapse).
- (5) In subsection (2)(g) “prescribed” means prescribed by regulations made by the Secretary of State; and the regulations may, in particular, make different provision for – 25
- (a) applications for the authorisation of different classes of activity, or
 - (b) different circumstances.

68 Consideration of application: general principles 30

- (1) In considering an application under section 67 the Commission –
- (a) shall have regard to the licensing objectives,
 - (b) shall form and have regard to an opinion of the applicant’s suitability to carry on the licensed activities,
 - (c) shall consider the suitability of any gaming machine to be used in connection with the licensed activities, and 35
 - (d) may consider the suitability of any other equipment to be used in connection with the licensed activities (by reference, in particular, to any relevant provision of standards established under section 87).
- (2) For the purpose of subsection (1)(b) the Commission may, in particular, have regard to – 40
- (a) the integrity of the applicant or of a person relevant to the application;

-
- (b) the competence of the applicant or of a person relevant to the application to carry on the licensed activities in a manner consistent with pursuit of the licensing objectives;
 - (c) the financial and other circumstances of the applicant or of a person relevant to the application (and, in particular, the resources likely to be available for the purpose of carrying on the licensed activities). 5
 - (3) In considering an application for a non-remote casino operating licence the Commission shall have regard, in addition to the matters specified in subsection (1), to the applicant’s commitment to –
 - (a) protecting vulnerable persons from being harmed or exploited by gambling, and 10
 - (b) making assistance available to persons who are or may be affected by problems related to gambling.
 - (4) The statement maintained by the Commission under section 23 must specify the principles to be applied by the Commission in considering applications under section 67. 15
 - (5) The statement must, in particular, specify the kind of evidence to which the Commission will have regard when assessing integrity, competence and financial or other circumstances; and that evidence may include –
 - (a) interviews conducted by or on behalf of the Commission; 20
 - (b) references provided to the Commission at the request of the applicant;
 - (c) information or opinions provided to the Commission (whether or not on request) by other persons;
 - (d) information sought by the Commission as to solvency in general and financial reserves in particular; 25
 - (e) the completion of training (whether provided in accordance with arrangements made by the Commission or otherwise);
 - (f) the possession of qualifications (whether awarded in accordance with arrangements made by the Commission or otherwise).
 - (6) The statement must also, in particular, specify the kind of evidence to which the Commission will have regard in considering the suitability of a gaming machine or of other equipment; and that evidence may include –
 - (a) the result of a test carried out by a person at the request of the Commission; 30
 - (b) the opinion of any person. 35
 - (7) The statement may specify a class of applicant or other person in relation to whom the Commission will or may assume integrity for the purpose of subsection (2)(a).
 - (8) The statement may specify a class of gaming machine or other equipment in relation to which the Commission will or may assume suitability; and –
 - (a) a class may, in particular, be defined by reference to standards under section 87 or 94 or by reference to regulations under Part 10, and 40
 - (b) subsection (1)(c) and (d) shall not apply to the consideration of an application in so far as it specifies that a gaming machine or other equipment falling within a class specified under this subsection is to be used in connection with the licensed activities. 45
 - (9) For the purposes of this section –

-
- (a) in relation to an application, a reference to the licensed activities is a reference to the activities which will be the licensed activities if the application is granted, and
- (b) a person is relevant to an application if, in particular, he is likely to exercise a function in connection with, or to have an interest in, the licensed activities. 5
- (10) For the purposes of this section “equipment” includes—
- (a) a computer,
- (b) a device for the playing of a casino game, and
- (c) any other piece of equipment; 10
- (but a gaming machine is not equipment for the purposes of this section).
- 69 Consideration of application: criminal record**
- (1) The Commission may refuse an application under section 67 if the applicant or a person relevant to the application has a conviction for a relevant offence.
- (2) This section does not prejudice the generality of section 68. 15
- (3) The reference in subsection (1) to a person who is relevant to an application shall be construed in accordance with section 68(8)(b).
- 70 Consideration of application: demand**
- In determining whether to grant an operating licence the Commission may not have regard to— 20
- (a) the area in Great Britain within which it is proposed to provide facilities, or
- (b) the expected demand for facilities which it is proposed to provide.
- 71 Procedure**
- (1) For the purpose of considering an application under section 67 the Commission may— 25
- (a) require the applicant to provide information;
- (b) consult, and have regard to information provided by or an opinion stated by, any person.
- (2) In subsection (1) “information” and “opinion” mean information or an opinion about— 30
- (a) the applicant,
- (b) a person relevant to the application, or
- (c) the licensed activities.
- (3) In particular, the Commission may require the production of an enhanced criminal record certificate under section 115 of the Police Act 1997 (c. 50) relating to— 35
- (a) the applicant, or
- (b) a person relevant to the application.
- (4) The statement maintained by the Commission under section 23 must, in particular, specify the Commission’s practice in relation to— 40
- (a) the delegation of functions in relation to applications,

- (b) the holding of oral hearings of applications, and
 - (c) evidence required or accepted in connection with applications.
- (5) The Commission may disregard an irregularity or deficiency in or in relation to an application, other than a failure to pay the fee required by section 67(2)(g).
- (6) For the purposes of this section a reference to the licensed activities or to a person relevant to an application shall be construed in accordance with section 68(8). 5

72 Determination of application

- (1) On considering an application under section 67 the Commission shall – 10
- (a) grant it,
 - (b) reject it, or
 - (c) grant it in respect of one or more of the activities specified in accordance with section 67(2)(a) and reject it in respect of the others.
- (2) Where the Commission grants an application in whole or in part it shall as soon as is reasonably practicable – 15
- (a) notify the applicant of the grant, and
 - (b) issue an operating licence to the applicant.
- (3) Where the Commission rejects an application in whole or in part it shall as soon as is reasonably practicable notify the applicant of – 20
- (a) the rejection, and
 - (b) the reasons for it.

Conditions

73 General conditions imposed by Commission

- (1) The Commission may specify conditions to be attached to – 25
- (a) each operating licence, or
 - (b) each operating licence falling within a specified class.
- (2) For the purposes of subsection (1)(b) a class may be defined wholly or partly by reference to – 30
- (a) the nature of the licensed activities;
 - (b) the circumstances in which the licensed activities are carried on;
 - (c) the nature or circumstances of the licensee or of another person involved or likely to be involved in the conduct of the licensed activities.
- (3) Where the Commission issues an operating licence it shall attach to the licence any condition specified under subsection (1) as a condition to be attached to operating licences of a class within which the licence falls. 35

74 General conditions: procedure

- (1) The Commission may amend or revoke a condition specified under section 73; and a reference in this section to the specification of a condition includes a reference to the amendment or revocation of a condition. 40

- (2) Before specifying a condition the Commission shall consult –
- (a) one or more persons who in the Commission’s opinion represent the interests of operating licensees who may be affected by the condition, and
 - (b) such of the persons specified in section 23(5) as the Commission thinks appropriate (if any). 5
- (3) The Commission shall publish any specification as soon as is reasonably practicable.
- (4) Where the Commission proposes to specify a condition –
- (a) at least three months before making the specification the Commission shall give notice of it to the holder of each licence which –
 - (i) has effect at that time, and
 - (ii) is within a class affected by the specification, 10
 - (b) if the Commission issues, after that time but before the specification is made, an operating licence of a class affected by the specification, the Commission shall give the licensee notice of the proposed specification, 15
 - (c) on the making of the specification an existing licence shall by virtue of this paragraph be subject to the condition specified.
- (5) If the Commission thinks it necessary by reason of urgency to make a specification without giving the notice required by subsection (4)(a) –
- (a) the Commission shall give as much notice as it thinks possible in the circumstances to the persons mentioned in that provision, 20
 - (b) subsection (4)(b) shall have effect after the time when notice is given under paragraph (a) above, and 25
 - (c) subsection (4)(c) shall have effect.
- (6) Subsection (4)(c), in its application to the amendment or revocation of a condition (by virtue of subsection (1)), shall be treated as –
- (a) making existing licences subject to the condition as amended, or
 - (b) relieving existing licences from the condition revoked. 30

75 Individual condition imposed by Commission

Where the Commission issues an operating licence it may attach a condition to the licence.

76 Condition imposed by Secretary of State

- (1) The Secretary of State may by regulations provide for a specified condition to be attached to operating licences falling within a specified description. 35
- (2) Transitional provision of regulations under this section (made by virtue of section 348(1)(c)) may, in particular, apply a condition (with or without modification) to licences issued before the regulations are made (or come into force). 40

77 Scope of powers to attach conditions

- (1) Without prejudice to the generality of the powers conferred by sections 73, 75 and 76, a condition attached under any of those sections may, in particular, do any of the things specified in this section.
- (2) A condition may have the effect of restricting the activities that may be carried on in reliance on the licence by reference to— 5
 - (a) the nature of the activities,
 - (b) the circumstances in which they are carried on, or
 - (c) their extent.
- (3) A condition may make provision wholly or partly by reference to— 10
 - (a) the nature of the licensed activities;
 - (b) the circumstances in which the licensed activities are carried on;
 - (c) the nature or circumstances of the licensee or of another person involved or likely to be involved in the conduct of the licensed activities. 15
- (4) In regulating the licensed activities a condition may make provision about—
 - (a) the facilities that may or must be provided in connection with the licensed activities;
 - (b) the manner in which facilities are provided;
 - (c) the number of persons that may or must be employed in the provision of facilities; 20
 - (d) the financial resources available for particular purposes to the person providing facilities;
 - (e) any other matter.
- (5) A condition may relate to the financial circumstances of the licensee or of another person involved or likely to be involved in the conduct of the licensed activities; in particular, a condition may make provision about the maintenance of reserves in respect of potential liabilities. 25
- (6) A condition of a remote operating licence may restrict the methods of communication that may be used in the course of the licensed activities. 30
- (7) A condition may make provision about how facilities for gambling are advertised or described.
- (8) A condition may make provision about the provision of assistance to persons who are or may be affected by problems related to gambling.
- (9) A condition may make provision about— 35
 - (a) establishing the identity of users of facilities;
 - (b) recording the identity of users of facilities;
 - (c) restricting facilities to persons registered in respect of the facilities in advance.

78 Requirement for personal licence

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- (1) The Commission shall use its powers under sections 73 and 75 to ensure that in respect of each operating licence at least one person—
 - (a) occupies a specified management office in or in respect of the licensee or in connection with the licensed activities, and

- (b) holds a personal licence authorising the performance of the functions of the office.
- (2) A condition under either of those sections may impose requirements which relate to a management office and are in addition to any required by subsection (1). 5
- (3) A condition attached to an operating licence by virtue of section 73, 75 or 76 may, in particular, provide that if a specified management office is held in or in respect of the licensee or in connection with a licensed activity (whether or not in pursuance of another condition) –
- (a) it must be held by an individual who holds a personal licence authorising the performance of the functions of the office, and 10
- (b) anything done in the performance of the functions of the office must be done in accordance with the terms and conditions of the personal licence.
- (4) A condition attached to an operating licence by virtue of section 73, 75 or 76 may, in particular, provide that if a specified operational function is performed in connection with a licensed activity it must be performed – 15
- (a) by an individual who holds a personal licence authorising performance of the function, and
- (b) in accordance with the terms and conditions of the personal licence. 20
- (5) In this section “management office” in relation to a licensee means –
- (a) if the licensee is a company, the office of director,
- (b) if the licensee is a partnership (including a limited liability partnership), the office of partner,
- (c) if the licensee is an unincorporated association, any office in the association, and 25
- (d) in any case, any position the occupier of which is required, by the terms of his appointment, to take or share responsibility for –
- (i) the conduct of a person who performs an operational function in connection with a licensed activity, or 30
- (ii) facilitating or ensuring compliance with terms or conditions of the operating licence.
- (6) In this section “operational function” means –
- (a) any function which enables the person exercising it to influence the outcome of gambling, 35
- (b) receiving or paying money in connection with gambling, and
- (c) manufacturing, supplying, installing, maintaining or repairing a gaming machine.
- (7) Provision by virtue of subsection (1) may be general or may relate only to specified – 40
- (a) kinds of operating licence,
- (b) cases, or
- (c) circumstances.
- (8) The Secretary of State may by order amend the definition of “management office” or “operational function” for the purposes of this section. 45
- (9) In relation to a bingo operating licence issued to a members’ club, a commercial club or a miners’ welfare institute –

- (a) subsection (1) shall not apply, and
- (b) a condition attached by virtue of section 73, 75 or 76 may not
 - (i) require that a person hold a personal licence, or
 - (ii) operate by reference to whether a person holds a personal licence.

5

79 Credit and inducements

- (1) A condition attached to an operating licence by virtue of section 73, 75 or 76 may, in particular, restrict or otherwise make provision about –
 - (a) the giving of credit in connection with the licensed activities;
 - (b) the making of offers designed to induce persons to participate, or to increase their participation, in the licensed activities; 10
 - (c) participation in arrangements for inducing, permitting or assisting persons to gamble.
- (2) A non-remote casino operating licence or a non-remote bingo operating licence shall by virtue of this subsection be subject to the condition that the licensee may not – 15
 - (a) give credit in connection with the licensed activities, or
 - (b) participate in, arrange or knowingly facilitate the giving of credit in connection with the licensed activities.
- (3) A licensee does not facilitate the giving of credit for the purposes of subsection (2)(b) by reason only of permitting a person (“the credit provider”) to conduct financial business on the premises on which licensed activities are carried on, provided that – 20
 - (a) the licensee has no other commercial connection with the credit provider in relation to the licensed activities, and 25
 - (b) the licensee neither makes nor receives any payment or reward (whether by way of commission, rent or otherwise) in connection with the permission or the financial business.
- (4) In this section “credit” includes – 30
 - (a) any form of financial accommodation, and
 - (b) in particular, the acceptance by way of payment of a fee, charge or stake of anything other than –
 - (i) cash,
 - (ii) a cheque which is not post-dated and for which full value is given, or 35
 - (iii) a debit card payment which is not post-dated and for which full value is given.
- (5) In subsection (4)(b)(iii) “debit card payment” means a payment –
 - (a) debited against a person’s banking account, and
 - (b) made by means of a card which is not a credit-token within the meaning of section 14 of the Consumer Credit Act 1974 (c. 39). 40

80 Compliance with code of practice

- (1) An operating licence shall by virtue of this section be subject to the condition that the licensee ensures compliance with any relevant social responsibility provision of a code of practice issued under section 24. 45

- (2) In subsection (1) –
- (a) the reference to a licensee includes a reference to anyone employed or engaged by a licensee to perform an operational function within the meaning of section 78, and
 - (b) the reference to a social responsibility provision of a code is a reference to a provision identified by a code as being included in pursuance of section 24(2). 5
- (3) This section does not prevent compliance with a provision of a code, other than a social responsibility provision, from being made the subject of a condition under section 73, 75 or 76. 10

81 Return of stakes to children

- (1) An operating licence shall by virtue of this section be subject to the condition that if the licensee becomes aware that a child or young person is using or has used facilities for gambling provided in reliance on the licence, the licensee –
- (a) must return any money paid in respect of the use of those facilities (whether by way of fee, stake or otherwise) by the child or young person as soon as is reasonably practicable, and 15
 - (b) may not give a prize to the child or young person.
- (2) But subsection (1) does not apply to –
- (a) the use of a Category D gaming machine, or 20
 - (b) participation in equal chance gaming at a licensed family entertainment centre.
- (3) The condition in subsection (1) –
- (a) shall have effect despite any contract or other agreement and despite any rule of law, and 25
 - (b) shall not enable a licensee to demand repayment of, and shall not require a child or young person to return, a prize paid before the licensee becomes aware that the participant is a child or young person.
- (4) In this section –
- (a) a reference to a licensee includes a reference to anyone employed or engaged by a licensee to perform an operational function within the meaning of section 78, and 30
 - (b) in relation to participation in a lottery or football pools a reference to a child or young person shall be treated as a reference only to a child.
- (5) In this section “prize” includes both a prize provided by a person organising gambling and winnings of money staked. 35

82 Premises

- (1) An operating licence –
- (a) may not include a condition (whether attached by virtue of section 73, 75 or 76) – 40
 - (i) requiring that the licensed activities be carried on at a specified place or class of place,
 - (ii) preventing the licensed activities from being carried on at a specified place or class of place, or

- (iii) specifying premises on which the licensed activities may be carried on, but
 - (b) may include a condition about—
 - (i) the number of sets of premises on which the licensed activities may be carried on; 5
 - (ii) the number of persons for whom facilities may be provided on any premises where the licensed activities are carried on.
 - (2) An operating licence of any kind may authorise activities carried on in more than one place.
- 83 Equipment 10**
- (1) A condition attached to an operating licence by virtue of section 73, 75 or 76 may make provision about equipment used in connection with the licensed activities.
 - (2) In particular, a condition attached by virtue of this section may—
 - (a) make provision about the number of pieces of equipment, other than equipment for playing bingo, that may be used to provide facilities for gambling; 15
 - (b) make provision about the specification of equipment used to provide facilities for gambling.
 - (3) For the purposes of this section “equipment” includes—
 - (a) a computer, 20
 - (b) a device for the playing of a casino game, and
 - (c) any other piece of equipment.
 - (4) But a gaming machine is not equipment for the purposes of this section.
- 84 Gaming machines 25**
- An operating licence may not include a condition (whether attached by virtue of section 73, 75 or 76)—
- (a) about the number or categories of gaming machine that may be made available for use in accordance with the licence,
 - (b) that contradicts a provision of regulations under section 230, 234 or 235, 30
or
 - (c) of a kind prohibited by regulations under any of those sections.
- 85 Membership 35**
- An operating licence may not be subject to a condition (whether by virtue of section 73, 75 or 76)—
- (a) requiring facilities to be provided by, or used in the course of the activities of, a club or other body with membership, or
 - (b) restricting the provision or use of facilities wholly or partly by reference to membership of a club or other body.
- 86 Information 40**
- (1) A condition attached to an operating licence by virtue of section 73 or 76 may require the provision of information of a specified kind to—

- (a) the Commission, or
 - (b) another specified person or class of person.
- (2) A condition attached by virtue of this section may, in particular –
- (a) relate to information about the use made of facilities provided in accordance with the operating licence; 5
 - (b) require a person to provide any information that he suspects may –
 - (i) relate to the commission of an offence under this Act,
 - (ii) relate to a breach of a rule applied by a sporting or other body, or
 - (iii) lead to the making of an order under section 330. 10

Rules for particular kinds of licence

87 Remote operating licence

- (1) This section applies to a remote operating licence.
- (2) A remote licence shall, by virtue of this subsection, be subject to the condition that remote gambling equipment used by the licensee in connection with the licensed activities must be situated in Great Britain. 15
- (3) The Commission may establish, or provide for the establishment of, standards in respect of –
- (a) a system used for the generation of results in a virtual game, virtual race or other virtual event or process used in the course of remote gambling; 20
 - (b) any other aspect of the process of remote gambling.
- (4) In particular, the Commission may –
- (a) provide for the enforcement of standards by the attachment of conditions under section 73 or 75; 25
 - (b) make arrangements with any person for the establishment of standards;
 - (c) make arrangements with any person for the administration of tests of compliance with standards;
 - (d) for the purpose of considering whether a condition under section 73 or 75 has been complied with, require the licensee under a remote licence – 30
 - (i) to submit to a test in accordance with arrangements made under paragraph (c) above, and
 - (ii) to produce specified evidence of the result of the test; 35
 - (e) for the purpose of considering whether to grant an application under this Part, require a licensee under a remote licence or an applicant for a remote licence –
 - (i) to submit to a test in accordance with arrangements made under paragraph (c) above, and 40
 - (ii) to produce specified evidence of the result of the test.
- (5) Standards established under subsection (4) may, in particular, be expressed –
- (a) by reference to the opinion of a specified person or class of persons;
 - (b) by reference to a specified process or piece of equipment.

- (6) This section is without prejudice to the generality of sections 73, 75 and 76.

88 Casino operating licence

- (1) A casino operating licence may be subject to a condition (whether imposed by virtue of section 73, 75 or 76) restricting the class of casino game that may be made available. 5
- (2) A casino operating licence may be subject to a condition imposed by virtue of section 73 or 75 specifying rules for the playing of –
- (a) a casino game;
 - (b) another game of chance.

89 Bingo operating licence

- (1) Regulations under section 76 may provide for the attachment to a bingo operating licence of a condition –
- (a) limiting amounts that may be staked;
 - (b) limiting the amount that may be charged by way of participation fee;
 - (c) limiting the amount or value of a prize or class of prize; 15
 - (d) requiring that at least a specified proportion of stakes be paid out by way of prizes;
 - (e) imposing requirements that are specific to games of bingo played on more than one set of premises (whether facilities for the game are provided in accordance with one bingo operating licence or more than one). 20
- (2) But subject to subsection (1) a bingo operating licence may not be subject to a condition –
- (a) limiting the amount that may be accepted or charged by way of stakes,
 - (b) limiting the amount that may be charged by way of participation fee, 25
 - (c) restricting the nature, amount or value of prizes,
 - (d) controlling the proportion of stakes paid out by way of prizes,
 - (e) preventing the provision of prizes funded other than out of stakes,
 - (f) preventing or limiting an arrangement whereby the fact that a prize is not won or claimed in one game of bingo increases the value of the prizes available in another game of bingo, 30
 - (g) requiring a game of bingo to be played entirely on one set of premises, or
 - (h) imposing requirements that are specific to games of bingo played on more than one set of premises (whether facilities for the game are provided in accordance with one bingo operating licence or more than one). 35
- (3) Regulations by virtue of subsection (1)(b) may, in particular, make different provision for different kinds of fee.
- (4) Provision made by virtue of subsection (1)(c) may define a class of prize – 40
- (a) by reference to a game or a number of games,
 - (b) by reference to a period of time, or
 - (c) in any other way.

90 General betting operating licence

- (1) A general betting operating licence shall, by virtue of this section, be subject to the condition that bets may be accepted on behalf of the licensee only by –
- (a) the licensee,
 - (b) a person employed by the licensee under a written contract of employment, or
 - (c) the holder of another general betting operating licence. 5
- (2) A general betting operating licence shall, by virtue of this subsection, contain an implied term permitting the use of postal services for the making of bets.
- (3) The effect of the term implied by subsection (2) may not be disapplied or restricted by a condition attached under section 73, 75 or 76. 10

91 Pool betting operating licence

- (1) A pool betting operating licence shall, by virtue of this section, be subject to the condition that bets may be accepted on behalf of the licensee only –
- (a) by the licensee, 15
 - (b) by a person employed by the licensee under a written contract of employment,
 - (c) by the holder of another pool betting operating licence, or
 - (d) in accordance with subsection (2) or (3).
- (2) A bet is accepted by a person (“the agent”) on behalf of a licensee in accordance with this subsection if –
- (a) the agent is authorised by the licensee in writing to accept bets on behalf of the licensee,
 - (b) the agent is an adult,
 - (c) at the time of accepting the bet the agent is on a track, 25
 - (d) the bet is accepted in reliance on an occasional use notice, and
 - (e) the bet is in connection with a horse-race or a dog race.
- (3) The holder of a pool betting operating licence that authorises (whether expressly or impliedly) the provision of facilities for football pools may in writing authorise an adult or young person –
- (a) to make documents or other facilities available in connection with the licensed activities;
 - (b) to receive entries on behalf of the licensee;
 - (c) to receive payments on behalf of the licensee;
 - (d) to make payments of winnings on behalf of the licensee. 30 35
- (4) An authorisation under subsection (3) –
- (a) shall be treated for the purposes of section 32 as if it were a pool betting operating licence, but
 - (b) shall have no effect in relation to any activity, entry or payment that relates partly to a football pool and partly to another form of gambling. 40
- (5) An authorisation under subsection (3) may be issued on terms and conditions which may, in particular, include –
- (a) provision for payment by the person issuing the authorisation;
 - (b) provision for commission.

- (6) A condition of a pool betting operating licence (whether attached by virtue of section 73, 75 or 76) may make provision regulating or restricting the activities of persons authorised under subsection (3).
- (7) A pool betting operating licence shall, by virtue of this subsection, contain an implied term permitting the use of postal services for the making of bets. 5
- (8) The effect of the term implied by subsection (7) may not be disapplied or restricted by a condition attached under section 73, 75 or 76.
- (9) The Secretary of State may by order –
 - (a) amend or repeal subsection (2)(e);
 - (b) amend subsection (3) so as to permit authorisation in relation to betting of a specified kind that relates to a sport but is not a football pool. 10

92 Horse-race pool betting operating licence

- (1) This section applies to a pool betting operating licence which provides for this section to apply.
- (2) The holder of a licence to which this section applies may in writing authorise a person to provide facilities for horse-race pool betting. 15
- (3) An authorisation under subsection (2) shall be treated for the purposes of section 32 as if it were a pool betting operating licence authorising the provision of facilities for horse-race pool betting.
- (4) An authorisation under subsection (2) may be issued on terms and conditions which may, in particular, include – 20
 - (a) provision for payment to or by the person issuing the authorisation;
 - (b) provision for agency or commission.
- (5) A condition of a pool betting operating licence to which this section applies (whether attached by virtue of section 73, 75 or 76) may make provision regulating or restricting the activities of persons authorised under subsection (2). 25
- (6) A pool betting operating licence to which this section applies shall, by virtue of this subsection, contain an implied term permitting the use of postal services for the making of bets. 30
- (7) The effect of the term implied by subsection (6) may not be disapplied or restricted by a condition attached under section 73, 75 or 76.
- (8) The Secretary of State may by order repeal this section.

93 Betting on the National Lottery

- (1) This section applies to – 35
 - (a) a general betting operating licence,
 - (b) a pool betting operating licence, and
 - (c) a betting intermediary operating licence.
- (2) A licence to which this section applies shall, by virtue of this subsection, be subject to the condition that nothing may be done in reliance on the licence in relation to a bet on the outcome of a lottery which forms part of the National Lottery. 40

94 Gaming machine technical operating licence

- (1) The Commission may establish, or provide for the establishment of, standards in respect of the manufacture, supply, installation, adaptation, maintenance or repair of gaming machines.
- (2) Standards under subsection (1) – 5
- (a) may operate by reference to regulations under Part 10, and
- (b) may not make provision which is inconsistent with a provision of regulations under Part 10.
- (3) Standards under subsection (1) may, in particular, make provision (which may include provision designed to discourage repetitive play or to protect children or other vulnerable persons from harm) about – 10
- (a) the nature of a game that a machine is designed to be used to play;
- (b) the way in which the results of a game are to be determined or presented;
- (c) the nature of images or information displayed by or on a machine. 15
- (4) In particular, the Commission may –
- (a) provide for the enforcement of standards by the attachment of conditions under section 73 or 75;
- (b) make arrangements with any person for the establishment of standards; 20
- (c) make arrangements with any person for the administration of tests of compliance with standards;
- (d) for the purpose of considering whether a condition under section 73 or 75 has been complied with, require the holder of a gaming machine technical operating licence – 25
- (i) to submit to a test in accordance with arrangements made under paragraph (c) above, and
- (ii) to produce specified evidence of the result of the test;
- (e) for the purpose of considering whether to grant an application under this Part, require the holder of or an applicant for a gaming machine technical operating licence – 30
- (i) to submit to a test in accordance with arrangements made under paragraph (c) above, and
- (ii) to produce specified evidence of the result of the test.
- (5) Standards established under subsection (3) may, in particular, be expressed – 35
- (a) by reference to the opinion of a specified person or class of persons;
- (b) by reference to a specified process or class of machine.
- (6) This section is without prejudice to the generality of sections 73, 75 and 76.

95 Gambling software operating licence: standards

- (1) The Commission may establish, or provide for the establishment of, standards in respect of the manufacture, supply, installation or adaptation of gambling software. 40
- (2) In particular, the Commission may –
- (a) provide for the enforcement of standards by the attachment of conditions under section 73 or 75; 45

- (b) make arrangements with any person for the establishment of standards;
- (c) make arrangements with any person for the administration of tests of compliance with standards;
- (d) for the purpose of considering whether a condition under section 73 or 75 has been complied with, require the holder of a gambling software operating licence – 5
 - (i) to submit to a test in accordance with arrangements made under paragraph (c) above, and
 - (ii) to produce specified evidence of the result of the test; 10
- (e) for the purpose of considering whether to grant an application under this Part, require the holder of or an applicant for a gambling software operating licence –
 - (i) to submit to a test in accordance with arrangements made under paragraph (c) above, and 15
 - (ii) to produce specified evidence of the result of the test.
- (3) Standards established under subsection (2) may, in particular, be expressed –
 - (a) by reference to the opinion of a specified person or class of persons;
 - (b) by reference to a specified process or description of software.
- (4) This section is without prejudice to the generality of sections 73, 75, or 76. 20

96 Lottery operating licences

- (1) A lottery operating licence may be issued only to –
 - (a) a non-commercial society,
 - (b) a local authority, or
 - (c) a person proposing to act as external lottery manager on behalf of a non-commercial society or a local authority. 25
- (2) A lottery operating licence may authorise –
 - (a) promotion generally or only specified promoting activities;
 - (b) the promotion of lotteries generally or only the promotion of lotteries of a specified kind or in specified circumstances; 30
 - (c) action as an external lottery manager (in which case it is known as a “lottery manager’s operating licence”).
- (3) In issuing a lottery operating licence to a society or authority the Commission –
 - (a) may attach a condition under section 73 or 75 requiring that the society or authority ensure that all the arrangements for the lottery are made by the holder of a lottery manager’s operating licence, and 35
 - (b) may, if they attach a condition under paragraph (a), issue the lottery licence to the society or authority without consideration of the matters specified in section 68(1)(b). 40
- (4) A lottery operating licence shall, by virtue of this subsection, permit the delivery of lottery tickets by post.
- (5) The effect of the term implied by subsection (4) may not be disapplied or restricted by a condition attached under section 73, 75 or 76.

- (6) In issuing a lottery operating licence the Commission may attach a condition under section 73 or 75 preventing, restricting or controlling the use of a rollover.
- (7) In this section “local authority” means –
- (a) in relation to England – 5
 - (i) a district council,
 - (ii) a county council for a county in which there are no district councils,
 - (iii) a parish council,
 - (iv) a London borough council, 10
 - (v) the Common Council of the City of London, and
 - (vi) the Council of the Isles of Scilly,
 - (b) in relation to Wales – 15
 - (i) a county council,
 - (ii) a county borough council, and
 - (iii) a community council, and
 - (c) in relation to Scotland, a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c. 39).

97 Mandatory conditions of lottery operating licence

- (1) In issuing a lottery operating licence to a non-commercial society or to a local authority the Commission shall attach conditions under section 73 or 75 for the purpose of achieving the requirements specified in this section. 20
- (2) The first requirement is that at least 20% of the proceeds of any lottery promoted in reliance on the licence are applied – 25
- (a) in the case of a licence issued to a non-commercial society, to a purpose for which the promoting society is conducted, and
 - (b) in the case of a licence issued to a local authority, for a purpose for which the authority has power to incur expenditure.
- (3) The second requirement is that – 30
- (a) the proceeds of any lottery promoted in reliance on the licence may not exceed £2,000,000, and
 - (b) the aggregate of the proceeds of lotteries promoted wholly or partly in a calendar year in reliance on the licence may not exceed £10,000,000.
- (4) The third requirement is that it must not be possible for the purchaser of a ticket in a lottery promoted in reliance on the licence to win by virtue of that ticket (whether in money, money’s worth, or partly the one and partly the other) more than – 35
- (a) £25,000, or
 - (b) if more, 10% of the proceeds of the lottery;
- and any rollover must comply with this subsection. 40
- (5) The fourth requirement is that where a person purchases a lottery ticket in a lottery promoted by a non-commercial society in reliance on the licence he receives a document which –
- (a) identifies the promoting society,

- (b) states the name and address of a member of the society who is designated, by persons acting on behalf of the society, as having responsibility within the society for the promotion of the lottery, and
 - (c) either –
 - (i) states the date of the draw (or each draw) in the lottery, or 5
 - (ii) enables the date of the draw (or each draw) in the lottery to be determined.
- (6) The fifth requirement is that the price payable for purchasing each ticket in a lottery promoted in reliance on the licence –
 - (a) must be the same, 10
 - (b) must be shown on the ticket or in a document received by the purchaser, and
 - (c) must be paid to the promoter of the lottery before any person is given a ticket or any right in respect of membership of the class among whom prizes are to be allocated. 15
- (7) For the purpose of subsections (5) and (6) a reference to a person receiving a document includes, in particular, a reference to a message being sent or displayed to him electronically in a manner which enables him, without incurring significant expense or delay, to –
 - (a) retain the message electronically, or 20
 - (b) print it.
- (8) The sixth requirement is that membership of the class among whom prizes in any lottery promoted in reliance on the licence are allocated may not be dependent on making any payment (apart from payment of the price of a ticket). 25
- (9) Where –
 - (a) conditions are attached to a lottery operating licence in accordance with this section, and
 - (b) the lottery operating licence is also subject to a condition under section 96(3)(a) requiring arrangements for the lottery to be made by the holder of a lottery manager’s operating licence, 30

the conditions specified in paragraph (a) above shall, by virtue of this subsection, attach to the lottery manager’s operating licence in so far as it is relied upon in pursuance of the condition specified in paragraph (b) above.
- (10) Nothing in this section prevents the Commission from attaching a condition to a lottery operating licence of a kind similar to but more onerous than a requirement of this section. 35
- (11) The Secretary of State may by order vary a monetary amount or a percentage in this section.

Maintenance 40

98 Annual fee

- (1) The holder of an operating licence –
 - (a) shall pay a first annual fee to the Commission within such period after the issue of the licence as may be prescribed, and

- (b) shall pay an annual fee to the Commission before each anniversary of the issue of the licence.
- (2) In this section –
 “annual fee” means a fee of such amount as may be prescribed, and
 “prescribed” means prescribed by the Secretary of State by regulations. 5
- (3) Regulations under this section may, in particular, make different provision for –
 (a) different kinds of operating licence, or
 (b) different circumstances.
- (4) Subsection (1)(b) does not apply in relation to an anniversary of the issue of a licence on or immediately before which the licence ceases to have effect by virtue of section 109. 10
- 99 Change of circumstance**
- (1) The Secretary of State may make regulations requiring the holder of an operating licence – 15
 (a) to notify the Commission of any change of circumstance of a prescribed kind in relation to him or to a licensed activity, and
 (b) to give the Commission prescribed details of the change.
- (2) If a change of circumstance notified under subsection (1) falsifies information contained in the operating licence in accordance with section 64 the notification must be accompanied by – 20
 (a) the licence, or
 (b) an application to the Commission for the issue of a copy of the licence under section 105.
- (3) Where notification is accompanied by the licence, the Commission shall – 25
 (a) make such alteration to the information contained in the licence as appears to it to be required by the change in circumstance, and
 (b) return the licence to the licensee.
- (4) Where the notification is accompanied by an application for a copy of the licence, the Commission shall, if it grants the application, issue the copy in a form which appears to the Commission to reflect the change in circumstance. 30
- (5) In this section “prescribed” means prescribed by regulations under this section.
- (6) The holder of an operating licence commits an offence if he fails without reasonable excuse to comply with regulations under this section.
- (7) A person guilty of an offence under subsection (6) shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale. 35
- (8) This section does not prevent the imposition of a requirement to notify the Commission of a specified change of circumstance by way of the attachment of a condition to an operating licence.
- 100 Change of corporate control** 40
- (1) This section applies where the holder of an operating licence is a company limited by shares (“the company”).

- (2) If a person becomes a controller of the company (“the new controller”), within the meaning of section 422 of the Financial Services and Markets Act 2000 (c. 8), the company shall inform the Commission and either –
 - (a) surrender the operating licence under section 111, or
 - (b) apply to the Commission under this section for a determination that the operating licence shall continue to have effect. 5
- (3) An application under subsection (2)(b) must be accompanied by such information as the Commission may direct about –
 - (a) the new controller,
 - (b) his interest in the company, and 10
 - (c) his interest in any company of which the company is a subsidiary (within the meaning of section 736 of the Companies Act 1985 (c. 6)).
- (4) On considering an application under section (2)(b) the Commission shall –
 - (a) make the determination sought, if satisfied that the Commission would have granted the operating licence to the licensee had the new controller been a controller of the company when the application for the operating licence was made, and 15
 - (b) otherwise, revoke the operating licence.
- (5) If the Commission becomes aware that a company has failed to comply with the duty under subsection (2) within the period of five weeks beginning with the day on which the duty began to apply to the company, the Commission shall revoke the relevant operating licence. 20
- (6) But the Commission may extend the period under subsection (5) –
 - (a) before it expires, or
 - (b) after it expires (if the relevant operating licence has not yet been revoked). 25

101 Section 100: supplemental

- (1) The Secretary of State may by regulations provide for section 100 not to apply to the holder of a specified description of operating licence.
- (2) An application under section 100(2)(b) must be accompanied by the prescribed fee. 30
- (3) An application may be made under section 100(2)(b) in respect of a person who is expected to become a controller of a company.
- (4) The Commission shall as soon as is reasonably practicable inform an applicant under section 100(2)(b) of –
 - (a) the Commission’s decision, and
 - (b) the reasons for it. 35
- (5) In giving a direction under section 100(3) the Commission shall have regard to normal commercial practices in relation to the confidentiality of information.
- (6) Regulations under subsection (2) above may, in particular, provide for a reduction of fee where the application is a result of –
 - (a) the merger of more than one company, or
 - (b) the division of a company. 40

- (7) Revocation of an operating licence under section 100 shall be treated for all purposes (including the application of section 117) as revocation under section 117.

102 Application to vary licence

- (1) The holder of an operating licence may apply to the Commission to vary the licence by – 5
- (a) adding, amending or removing a licensed activity,
 - (b) amending another detail of the licence, or
 - (c) adding, amending or removing a condition attached to the licence under section 75. 10
- (2) A licence may not be varied under this section so as to authorise anyone other than the person to whom it was issued to provide facilities for gambling.
- (3) The provisions of this Part shall apply in relation to an application for variation as they apply in relation to an application for a licence –
- (a) subject to the provisions of this section, and 15
 - (b) with any other necessary modifications.
- (4) Regulations under this Part which relate to an application for an operating licence may make –
- (a) provision which applies only in the case of an application for variation;
 - (b) provision which does not apply in the case of an application for variation; 20
 - (c) different provision in relation to an application for variation from that made in relation to an application for an operating licence;
 - (d) different provision in relation to applications for variations of different kinds. 25
- (5) An application for variation must (in addition to anything required by section 67) be accompanied by –
- (a) a statement of the variation sought, and
 - (b) either – 30
 - (i) the licence to be varied, or
 - (ii) a statement explaining why it is not reasonably practicable to produce the licence.
- (6) In granting an application for variation the Commission –
- (a) shall specify a time when the variation shall begin to have effect, and
 - (b) may make transitional provision. 35

103 Amendment

- (1) The Commission may require the holder of an operating licence to submit it to the Commission for the purpose of amendment to reflect –
- (a) a general variation of conditions under section 73,
 - (b) a change notified under section 99, 40
 - (c) the grant of an application for variation under section 102,
 - (d) the attachment of an additional condition, or the amendment of a condition, under section 115,
 - (e) the grant of an application for renewal under section 110, or

-
- (f) anything done in relation to a personal licence under Part 6.
- (2) A licensee shall comply with a requirement under subsection (1) within the period of 14 days beginning with the day on which he receives notice of the requirement.
- (3) A person commits an offence if he fails without reasonable excuse to comply with a requirement imposed under subsection (1). 5
- (4) A person guilty of an offence under subsection (3) shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.
- (5) Subsection (1)(a) is without prejudice to section 74(4)(c).
- 104 Register of operating licences 10**
- (1) The Commission shall –
- (a) maintain a register of operating licences containing such details of and relating to each licence as the Commission thinks appropriate,
- (b) make the register available for inspection by members of the public at all reasonable times, and 15
- (c) make arrangements for the provision of a copy of an entry in the register to a member of the public on request.
- (2) The Commission may refuse to provide access to the register or to provide a copy of an entry unless the person seeking access or a copy pays a fee specified by the Commission. 20
- (3) The Commission may not specify a fee under subsection (2) which exceeds the reasonable cost of providing the service sought (but in calculating the cost of providing a service to a person the Commission may include a reasonable share of expenditure which is referable only indirectly to the provision of that service). 25
- 105 Copy of licence**
- (1) The Commission may make arrangements to issue to a licensee on request a copy of an operating licence which has been lost, stolen or damaged.
- (2) The arrangements may, in particular, include a requirement –
- (a) for the payment of a fee not exceeding such sum as may be prescribed for the purposes of this subsection by the Secretary of State by regulations; 30
- (b) in the case of a licence being lost or stolen, that the licensee has complied with specified arrangements for reporting the loss or theft to the police. 35
- (3) A copy of a licence issued under this section shall be treated as if it were the licence.
- 106 Production of licence**
- (1) A constable or enforcement officer may require the holder of an operating licence to produce it to the constable or enforcement officer within a specified period. 40

- (2) A licensee commits an offence if he fails without reasonable excuse to comply with a requirement under subsection (1).
- (3) A person guilty of an offence under subsection (2) shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

107 Conviction 5

- (1) If the holder of an operating licence is convicted of an offence by or before a court in Great Britain he shall as soon as is reasonably practicable notify the Commission of—
- (a) his conviction, and
 - (b) any sentence passed in respect of it. 10
- (2) If the holder of an operating licence is convicted of a relevant offence by or before a court in Great Britain he shall immediately inform the court that he is the holder of an operating licence.
- (3) If the holder of an operating licence is convicted of a relevant offence by or before a court outside Great Britain he shall as soon as is reasonably practicable notify the Commission of—
- (a) his conviction, and
 - (b) any sentence passed in respect of it. 15
- (4) A person commits an offence if he fails without reasonable excuse to comply with any of subsections (1) to (3). 20
- (5) A person guilty of an offence under subsection (4) shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

Duration

108 Indefinite duration

- An operating licence shall continue to have effect unless and until it ceases to have effect in accordance with— 25
- (a) a determination under section 109, or
 - (b) section 111, 112, 113, 116 or 117.

109 Power to limit duration

- (1) The Commission may determine that operating licences, or a specified class of operating licence, shall cease to have effect at the end of a specified period (unless terminated earlier in accordance with section 111, 112, 113 or 117). 30
- (2) The period specified under subsection (1)—
- (a) in the case of an operating licence issued after the determination, must begin with the date on which the licence is issued, and 35
 - (b) in the case of an operating licence issued before the determination, must begin with the date of the determination.
- (3) The Commission—
- (a) may determine different periods under subsection (1) for operating licences authorising different classes of activity (but may not otherwise determine different periods for different licences), 40

- (b) may alter a determination under subsection (1) (but an alteration shall have effect only in relation to licences issued after the alteration), and
 - (c) may revoke a determination under subsection (1) (in which case the determination shall cease to have effect in relation to licences already issued). 5
- (4) The Commission shall publish any determination under subsection (1) as part of a statement (or revised statement) under section 23.

110 Renewal of licence

- (1) Where an operating licence is subject to a determination under section 109, the licensee may apply to the Commission for renewal of the licence. 10
- (2) The provisions of this Part shall apply in relation to an application for renewal as they apply in relation to an application for a licence –
 - (a) subject to the provisions of this section, and
 - (b) with any other necessary modifications.
- (3) An application for renewal of an operating licence may be made only during the period which – 15
 - (a) begins three months before the date on which the licence would otherwise expire by virtue of section 109, and
 - (b) ends one month before the date on which the licence would otherwise expire by virtue of that section. 20
- (4) Where an application for renewal of an operating licence is awaiting determination on the date when it would expire by virtue of section 109, the licence shall continue to have effect by virtue of this subsection until the application is determined (unless it ceases to have effect by virtue of section 111, 112, 113, 116 or 117). 25
- (5) A direction or regulations under this Part which relate to an application for an operating licence may make –
 - (a) provision which applies only in the case of an application for renewal;
 - (b) provision which does not apply in the case of an application for renewal; 30
 - (c) different provision in relation to an application for renewal from that made in relation to an application for an operating licence.
- (6) An application for renewal must (in addition to anything required by section 67) be accompanied by – 35
 - (a) the licence to be renewed, or
 - (b) a statement explaining why it is not reasonably practicable to submit the licence to be renewed.
- (7) The Commission shall determine the period during which a renewed operating licence is to have effect (subject to sections 111, 112, 113, 116 and 117); and the Commission – 40
 - (a) may determine different periods for operating licences authorising different classes of activity (but may not otherwise determine different periods for different licences),
 - (b) may alter a determination (but an alteration shall have effect only in relation to licences issued after the alteration), and 45

- (c) shall publish any determination under this subsection as part of a statement (or revised statement) under section 23.
- (8) The Secretary of State may by order amend subsection (3) so as to substitute a different time for a time specified.

111 Surrender 5

An operating licence shall cease to have effect if the licensee –

- (a) notifies the Commission of his intention to surrender the licence, and
- (b) gives the Commission either –
- (i) the licence, or
- (ii) a written statement explaining why it is not reasonably practicable to produce the licence. 10

112 Lapse

- (1) In the case of an operating licence issued to an individual, the licence shall lapse if –
- (a) the licensee dies, 15
- (b) the licensee becomes, in the opinion of the Commission as notified to the licensee, incapable of carrying on the licensed activities by reason of mental or physical incapacity,
- (c) the licensee becomes bankrupt (within the meaning of section 381 of the Insolvency Act 1986 (c. 45)), or 20
- (d) sequestration of the licensee’s estate is awarded under section 12(1) of the Bankruptcy (Scotland) Act 1985 (c. 66).
- (2) In any other case an operating licence shall lapse if the licensee –
- (a) ceases to exist, or
- (b) goes into liquidation (within the meaning of section 247(2) of the Insolvency Act 1986. 25

113 Forfeiture

- (1) Where the holder of an operating licence is convicted of a relevant offence by or before a court in Great Britain the court may order forfeiture of the licence.
- (2) Forfeiture under this section shall be on such terms (which may include terms as to suspension) as may be specified by –
- (a) the court which orders forfeiture,
- (b) a court to which an appeal against the conviction, or against any order made on the conviction, has been or could be made, or
- (c) the High Court, if hearing proceedings relating to the conviction. 35
- (3) Subject to any express provision made under subsection (2), an operating licence shall cease to have effect on the making of a forfeiture order under subsection (1).
- (4) The terms on which a forfeiture order is made under this section shall, in particular, include a requirement that the licensee deliver to the Commission, within such time as the order may specify –
- (a) the licence, or 40

- (b) a statement explaining why it is not reasonably practicable to produce the licence.
- (5) As soon as is reasonably practicable after making an order for forfeiture under this section the court shall notify the Commission.

Regulation

5

114 Review

- (1) The Commission may in relation to operating licences of a particular description review –
 - (a) the manner in which licensees carry on licensed activities, and
 - (b) in particular, arrangements made by licensees to ensure compliance with conditions attached under section 73, 75 or 76. 10
- (2) The Commission may review any matter connected with the provision of facilities for gambling as authorised by an operating licence if the Commission –
 - (a) has reason to suspect that activities may have been carried on in purported reliance on the licence but not in accordance with a condition of the licence, 15
 - (b) believes that the licensee, or a person who exercises a function in connection with or is interested in the licensed activities, has acquired a conviction of a kind mentioned in section 69(1), or 20
 - (c) for any reason –
 - (i) suspects that the licensee may be unsuitable to carry on the licensed activities, or
 - (ii) thinks that a review would be appropriate.
- (3) For the purposes of subsection (2)(c) a reason – 25
 - (a) may, in particular, relate to the receipt of a complaint about the licensee’s activities;
 - (b) need not relate to any suspicion or belief about the licensee’s activities.
- (4) Before commencing a review of an operating licence under subsection (2) the Commission shall – 30
 - (a) notify the licensee, and
 - (b) inform him of the procedure to be followed in the conduct of the review.
- (5) In conducting a review of an operating licence under subsection (2) the Commission – 35
 - (a) shall give the licensee an opportunity to make representations, and
 - (b) may give other persons an opportunity to make representations.

115 Regulatory powers

- (1) Following a review under section 114(1) or (2) the Commission may – 40
 - (a) give the holder of an operating licence a warning;
 - (b) attach an additional condition to a licence under section 75;
 - (c) remove or amend a condition attached to a licence under section 75;
 - (d) exercise the power under section 116 to suspend a licence;

- (e) exercise the power under section 117 to revoke a licence;
 - (f) exercise the power under section 119 to impose a penalty.
- (2) Where the Commission determines to take action under subsection (1) in respect of a licence it shall as soon as is reasonably practicable notify the licensee of – 5
- (a) the action, and
 - (b) the Commission’s reasons.
- (3) In determining what action to take under subsection (1) following a review the Commission may have regard to a warning under that subsection given to the licensee following an earlier review (whether or not of that licence). 10

116 Suspension

- (1) The Commission may suspend an operating licence if following a review under section 114(1) or (2) the Commission thinks that any of the conditions specified in section 118(1) applies.
- (2) The Commission may suspend an operating licence if at the time of deciding to conduct a review under section 114(1) or (2), or at any time during the course of a review, the Commission suspects that any of the conditions specified in section 118(1) may apply. 15
- (3) The Commission may suspend an operating licence if it thinks that any of the conditions specified in section 118(2) applies. 20
- (4) Where the Commission suspends an operating licence it –
- (a) shall specify the time when the suspension takes effect,
 - (b) shall specify either –
 - (i) a period for which the suspension shall last (which is without prejudice to the re-exercise of the power under subsection (1) on or after the expiry of that period), or 25
 - (ii) that the suspension shall last until some specified event occurs (which may be the giving of a notice by the Commission), and
 - (c) may make saving or transitional provision (which may, in particular, provide for a licence to continue to have effect in relation to a gaming machine supplied, or another thing done, before the time when the suspension takes effect for other purposes). 30
- (5) An operating licence shall have no effect in respect of anything done while it is suspended under this section.

117 Revocation

- (1) The Commission may revoke an operating licence if following a review under section 114(1) or (2) the Commission thinks that any of the conditions specified in section 118(1) applies. 35
- (2) The Commission may revoke an operating licence if it thinks that any of the conditions specified in section 118(2) applies. 40
- (3) The Commission shall revoke an operating licence if the licensee fails to pay the annual fee in accordance with section 98; but the Commission may disapply this subsection if it thinks that a failure to pay is attributable to administrative error.

- (4) Where the Commission revokes an operating licence it—
 - (a) shall specify the time when the revocation takes effect, and
 - (b) may make saving or transitional provision (which may, in particular, provide for a licence to continue to have effect in relation to a gaming machine supplied, or another thing done, before the time when the revocation takes effect for other purposes). 5

118 Conditions for suspension or revocation

- (1) The conditions referred to in sections 116(1) and (2) and 117(1) are—
 - (a) that a licensed activity is being or has been carried on in a manner which is inconsistent with the licensing objectives, 10
 - (b) that a condition of the licence has been breached,
 - (c) that the licensee has failed to cooperate with a review under section 114(1) or (2), or
 - (d) that the licensee is unsuitable to carry on the licensed activities.
- (2) The conditions referred to in sections 116(3) and 117(2) are— 15
 - (a) that the licensee has failed to comply with a requirement of regulations under section 99, or
 - (b) that the licensee has failed to submit the licence to the Commission for amendment in accordance with section 103.
- (3) In considering a licensee’s suitability for the purpose of subsection (1)(d) the Commission may, in particular, have regard to— 20
 - (a) the integrity of the licensee or of any person who exercises a function in connection with or is interested in the licensed activities;
 - (b) the competence of the licensee, or of any person who exercises a function in connection with the licensed activities, to carry on the licensed activities in a manner consistent with pursuit of the licensing objectives; 25
 - (c) the financial and other circumstances of the licensee or of any person who exercises a function in connection with or is interested in the licensed activities (and, in particular, the resources available for the purpose of carrying on the licensed activities). 30

119 Financial penalty

- (1) The Commission may require the holder of an operating licence to pay a penalty if the Commission thinks that a condition of the licence has been breached. 35
- (2) Before imposing a requirement on a licensee to pay a penalty under this section the Commission must notify him—
 - (a) that the Commission proposes to require him to pay a penalty,
 - (b) of the amount of the proposed penalty,
 - (c) of the Commission’s reasons, and 40
 - (d) of a period within which he may make representations to the Commission.
- (3) The Commission may not give a notice under subsection (2) in respect of the breach of a condition after the end of the period of two years beginning with—
 - (a) the day on which the breach occurred or began to occur, or 45

- (b) if later, the day on which the breach came to the knowledge of the Commission.
- (4) After the end of the period specified under subsection (2)(d) the Commission may give the licensee a notice requiring him to pay a penalty under this section.
- (5) A penalty imposed by notice under subsection (4) – 5
- (a) shall be payable by the licensee to the Commission,
 - (b) may be enforced as if it were a debt owed by the licensee to the Commission, and
 - (c) on receipt by the Commission shall be paid into the Consolidated Fund after deduction of a sum which represents the direct costs to the Commission of, and a reasonable share of expenditure by the Commission which is indirectly referable to – 10
 - (i) the investigation by the Commission of the matter in respect of which the penalty is imposed (whether by review under section 114 or otherwise), or 15
 - (ii) the imposition and enforcement of the penalty.
- (6) The Commission shall –
- (a) prepare a statement setting out the principles to be applied by the Commission in exercising the powers under this section,
 - (b) review the statement from time to time, 20
 - (c) revise the statement when the Commission thinks it necessary,
 - (d) as soon as is reasonably practicable –
 - (i) send the statement and any revision to the Secretary of State, and
 - (ii) publish the statement and any revision, and 25
 - (e) have regard to the statement when exercising a power under this section.
- (7) The statement maintained under subsection (6) must, in particular, require the Commission in considering the imposition of a penalty under this section or the amount of a penalty to have regard, in particular, to – 30
- (a) the seriousness of the breach of condition in respect of which the penalty is proposed,
 - (b) whether or not the licensee knew or ought to have known of the breach, and
 - (c) the nature of the licensee (including, in particular, his financial resources). 35
- (8) Before preparing or revising a statement under subsection (6) the Commission shall consult –
- (a) the Secretary of State,
 - (b) the Lord Chancellor, and 40
 - (c) such other persons as the Commission thinks appropriate.

120 Information

- (1) The holder of an operating licence shall comply with a request of the Commission to –
- (a) produce a written or electronic record relating to the licensed activities; 45

- (b) provide a copy of a written or electronic record relating to the licensed activities;
 - (c) provide information about the licensed activities.
- (2) A request under subsection (1) may specify –
 - (a) the form and manner in which a record or information is to be produced or provided; 5
 - (b) the period within which a record or information is to be produced or provided.
- (3) The Commission may retain anything provided under subsection (1).
- (4) The Commission may exercise a power under this section only for the purpose of – 10
 - (a) determining whether activities have been carried on in purported reliance on the licence but not in accordance with a condition of the licence, or
 - (b) determining the suitability of the licensee to carry on the licensed activities. 15
- (5) A person commits an offence if he fails without reasonable excuse to comply with subsection (1).
- (6) A person guilty of an offence under subsection (5) shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale. 20

General

121 Levy

- (1) The Secretary of State may make regulations requiring holders of operating licences to pay an annual levy to the Commission.
- (2) The regulations shall, in particular, make provision for – 25
 - (a) the amount of the levy;
 - (b) timing of payment of the levy.
- (3) The regulations may, in particular, make provision –
 - (a) determining the amount of the levy by reference to a percentage of specified receipts of an operating licence holder, 30
 - (b) determining the amount of the levy by reference to a percentage of specified profits of an operating licence holder,
 - (c) determining the amount of the levy by reference to a percentage of the annual fee under section 98,
 - (d) providing for the determination of the amount of the levy according to a specified formula, or 35
 - (e) providing for the determination of the amount of the levy in some other way.
- (4) Any sum due by way of levy by virtue of this section shall be treated for the purposes of this Act as if it were due by way of annual fee under section 98. 40
- (5) The Commission shall, with the consent of the Treasury and of the Secretary of State, expend money received by way of levy for purposes related to, or by providing financial assistance for projects related to –

-
- (a) addiction to gambling,
 - (b) other forms of harm or exploitation associated with gambling, or
 - (c) any of the licensing objectives.
- (6) In subsection (5) the reference to financial assistance is a reference to grants, loans and any other form of financial assistance, which may be made or given on terms or conditions (which may include terms and conditions as to repayment with or without interest). 5
- (7) The Secretary of State shall consult the Commission before making regulations under this section.
- 122 Directions and requirements** 10
- Where the Commission has power under this Part to give a direction or impose a requirement it may give different directions or impose different requirements in relation to different cases or circumstances.
- 123 Relevant offence: disapplication of rehabilitation**
- Section 4 of the Rehabilitation of Offenders Act 1974 (c. 53) (effect of rehabilitation) shall not apply for the purposes of or in connection with— 15
- (a) section 67(2)(d), or
 - (b) section 69(1).
- 124 Interpretation**
- (1) In this Part— 20
- “conviction”—
 - (a) has the meaning given by section 1(4) of the Rehabilitation of Offenders Act 1974, and
 - (b) includes, to the extent required by section 123, a spent conviction within the meaning of that Act, 25
 - “holder”, in relation to an operating licence, means the person to whom the licence is issued,
 - “the licensed activities” in relation to an operating licence means the activities which it authorises, and
 - “licensee”, in relation to an operating licence, means the person to whom the licence is issued. 30
- (2) In this Act “relevant offence” means —
- (a) an offence listed in Schedule 7, and
 - (b) an offence under the law of a country or territory outside the United Kingdom (a “foreign offence”) which prohibits a kind of activity prohibited by an offence listed in that Schedule (a “domestic offence”). 35
- (3) For the purpose of subsection (2)(b) it is immaterial —
- (a) whether or not the foreign offence prohibits all the kinds of activity prohibited by the domestic offence, and
 - (b) whether or not the foreign offence prohibits kinds of activity not prohibited by the domestic offence. 40

PART 6

PERSONAL LICENCES

125 Nature of personal licence

- (1) For the purposes of this Act a “personal licence” is a licence which authorises an individual to perform the functions of a specified management office, or to perform a specified operational function, in connection with—
 - (a) the provision of facilities for gambling, or
 - (b) a person who provides facilities for gambling.5
- (2) In this section “management office” and “operational function” have the same meaning as in section 78. 10

126 Application of provisions of Part 5

- (1) The provisions of Part 5 (other than section 63(2), (4) and (5)) shall apply to a personal licence as they apply to an operating licence, with—
 - (a) the modifications and exclusions specified in this Part,
 - (b) such modifications and exclusions as the Secretary of State may specify by regulations, and
 - (c) any other necessary modifications.15
- (2) Regulations under a provision of Part 5—
 - (a) may make different provision for purposes of this Part and for purposes of that Part, and
 - (b) in making provision for purposes of this Part, may make different provision in relation to personal licences authorising—
 - (i) the performance of different kinds of function, or
 - (ii) the performance of functions in different circumstances.20

127 Exemption for small-scale operators

- (1) A condition may not be attached to an operating licence under section 73, 75 or 76 requiring possession of a personal licence if the licensee is a small-scale operator. 25
- (2) In this section “small-scale” operator shall have such meaning as the Secretary of State may prescribe by regulations. 30
- (3) Regulations under subsection (2) may, in particular, make provision by reference to—
 - (a) the size or value of business carried on, or expected to be carried on, in reliance on an operating licence;
 - (b) the number of persons employed, or expected to be employed, by the licensee. 35
- (4) A constable or enforcement officer may under section 106(1) require a small-scale operator to produce his operating licence—
 - (a) within a specified period, or
 - (b) while the operator is carrying on a licensed activity, immediately. 40

128 Application

- (1) A direction under section 67(2)(c) or (f) (as applied by section 126) may, in particular, require that an application –
 - (a) be signed by the applicant’s employer;
 - (b) contain or be accompanied by information provided by the applicant’s employer or relating to his employment. 5
- (2) The Commission may under section 71(1)(a) (as applied by section 126) require an applicant to obtain information from his employer.
- (3) For the purposes of this section a reference to an applicant’s employer is a reference to any person for whom the applicant, in the course of a business (but whether or not under a contract of employment) –
 - (a) provides services,
 - (b) has provided services, or
 - (c) intends to provide services. 10
- (4) Neither this section nor any other provision of this Act shall be treated as preventing a person who is not employed from applying for a personal licence. 15

129 Duration

A personal licence shall continue to have effect unless and until it ceases to have effect in accordance with section 111, 112, 113 or 117 (as applied by section 126). 20

130 Fees

- (1) Section 98 shall not have effect in relation to personal licences.
- (2) The Secretary of State may make regulations requiring the holder of a personal licence to pay to the Commission specified fees in respect of specified periods during which the licence is held. 25
- (3) Regulations under this section may, in particular, make different provision for –
 - (a) different kinds of licence, or
 - (b) different circumstances.
- (4) In its application to this part by virtue of section 126, the reference in section 117(3) to failure to pay an annual fee shall be construed as a reference to failure to comply with regulations under this section. 30

131 Multiple licences

- (1) The Commission may not issue a personal licence to an individual who already holds one. 35
- (2) But a personal licence may authorise the performance of more than one function.

132 Production of licence

- (1) A constable or enforcement officer may under section 106 (as applied by section 126) require the individual who holds a personal licence to produce the licence—
 - (a) within a specified period, 5
 - (b) while the individual is carrying on a licensed activity, immediately, or
 - (c) while the individual is on premises in respect of which a premises licence has effect, immediately.
- (2) A licensee commits an offence if he fails without reasonable excuse to comply with a requirement under subsection (1). 10
- (3) A person guilty of an offence under subsection (2) shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

133 Review

Section 114(1) shall not apply in relation to personal licences.

134 Disqualification 15

- (1) A court which may order the forfeiture of an individual's personal licence under section 113 (as applied by section 126) may, whether or not it makes an order for forfeiture, make an order disqualifying the individual from holding a personal licence for a specified period, not exceeding ten years, beginning with the date of the order. 20
- (2) The Commission shall not issue a personal licence to a person while a disqualification order under this section has effect in respect of him.
- (3) Subsections (2) to (5) of section 113 shall have effect in relation to an order under this section (and in relation to a licence held by the person disqualified) as they have effect in relation to an order under that section (and in relation to the licence forfeited). 25

135 Notification of operating licensee

- (1) This section applies where the Commission—
 - (a) suspends a personal licence under section 116 (as applied by section 126), 30
 - (b) revokes a personal licence under section 117 (as applied by section 126),
 - (c) is informed by a court of the making of a forfeiture order in respect of a personal licence under section 113 (as applied by section 126), or
 - (d) is informed by a court of the making of a disqualification order under section 134. 35
- (2) If the Commission believes that the holder of the personal licence, or the subject of the disqualification order, is providing services to the holder of an operating licence in connection with the licensed activities, the Commission shall as soon as is reasonably practicable notify the holder of the operating licence of the matter specified in subsection (1). 40

136 Conviction

- (1) This section applies if the holder of a personal licence is convicted of a relevant offence by or before a court (whether inside or outside Great Britain).
- (2) The holder of any relevant operating licence shall notify the Commission of the conviction, and of any sentence passed in respect of it, as soon as is reasonably practicable after becoming aware of it. 5
- (3) A person commits an offence if he fails without reasonable excuse to comply with subsection (2).
- (4) A person guilty of an offence under subsection (3) shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale. 10
- (5) For the purposes of subsection (2) an operating licence is relevant if the holder of the personal licence acts in connection with activities authorised by the operating licence.
- (6) The duty under subsection (2) is in addition to any duty of the holder of the personal licence under section 107 (as applied by section 126). 15

137 Breach of personal licence condition

- (1) This section applies where –
- (a) a condition attached to an operating licence includes provision for a personal licence in accordance with section 78,
 - (b) an individual who holds a personal licence under this Part acts in the course of or in connection with any of the activities authorised by the operating licence, and 20
 - (c) the individual's action is not in accordance with the terms and conditions of the personal licence.
- (2) The individual commits an offence. 25
- (3) The individual may be proceeded against for the offence under subsection (2) whether or not the holder of the operating licence is proceeded against for an offence under section 32 (by reason of a breach of the condition under section 78).
- (4) An individual guilty of an offence under this section shall be liable on summary conviction to – 30
- (a) imprisonment for a term not exceeding 51 weeks,
 - (b) a fine not exceeding level 5 on the standard scale, or
 - (c) both.
- (5) In the application of subsection (4) to Scotland the reference to 51 weeks shall have effect as a reference to six months. 35

PART 7

OPERATING AND PERSONAL LICENCES: APPEALS

138 The Gambling Appeals Tribunal

- (1) There shall be a tribunal to be known as the Gambling Appeals Tribunal. 40

- (2) Schedule 8 (which makes provision about the constitution and proceedings of the Tribunal) shall have effect.
- (3) In this Part “the Tribunal” means the Gambling Appeals Tribunal.

139 Appeal to Tribunal

- (1) Where the Commission determines an application under section 67 or 110 (including either of those sections as applied by section 126) for the issue or renewal of an operating licence or a personal licence, the applicant may appeal to the Tribunal. 5
- (2) Where the Commission attaches a condition to a licence under section 75 (including that section as applied by section 126) the licensee may appeal to the Tribunal. 10
- (3) Where the Commission determines an application under section 100(2)(b) the applicant may appeal to the Tribunal.
- (4) Where the Commission determines an application under section 102 (including that section as applied by section 126) the applicant may appeal to the Tribunal. 15
- (5) Where the Commission gives a notice under section 111(1)(b) (including that section as applied by section 125) the licensee may appeal to the Tribunal.
- (6) Where the Commission takes action, or determines to take action, under section 115 (including that section as applied by section 126) in respect of a licence, the licensee may appeal to the Tribunal. 20
- (7) Where the Commission takes action, or determines to take action, under section 116 (including that section as applied by section 126) in respect of a licence, the licensee may appeal to the Tribunal.
- (8) Where the Commission takes action, or determines to take action, under section 117 (including that section as applied by section 126) in respect of a licence, the licensee may appeal to the Tribunal. 25
- (9) Where the Commission gives a notice imposing a penalty on a licensee under section 119(4) (including that section as applied by section 126) the licensee may appeal to the Tribunal. 30

140 Timing

- (1) An appeal under section 139 must be instituted before the end of the period of one month beginning with the date of the decision or action appealed against.
- (2) But the Tribunal may permit an appeal to be instituted after the end of that period. 35

141 Appeal from Tribunal

- (1) A party to proceedings before the Tribunal under section 139 may appeal on a point of law to—
 - (a) the High Court (where the Tribunal proceedings were held in England or Wales), or
 - (b) the Court of Session (where the Tribunal proceedings were held in Scotland). 40

- (2) An appeal under this section may be brought only with the permission of –
- (a) the Tribunal, or
 - (b) if the Tribunal refuses permission, the court referred to in subsection (1).
- (3) A court to which an appeal is brought under this section may – 5
- (a) affirm the Tribunal’s decision;
 - (b) quash the Tribunal’s decision;
 - (c) remit the matter to the Tribunal (generally, or for determination in accordance with a finding made or direction given by the court).
- 142 Powers of Tribunal** 10
- (1) On an appeal under section 139 against a decision or action taken by the Commission the Tribunal may –
- (a) affirm the Commission’s decision or action;
 - (b) quash the Commission’s decision or action in whole or in part;
 - (c) substitute for all or part of the Commission’s decision or action another decision or action of a kind that the Commission could have taken; 15
 - (d) add to the Commission’s decision or action a decision or action of a kind that the Commission could have taken;
 - (e) remit a matter to the Commission (generally, or for determination in accordance with a finding made or direction given by the Tribunal); 20
 - (f) reinstate a lapsed or revoked licence.
- (2) In determining an appeal instituted out of time under section 140(2) or following a direction under section 143(2) the Tribunal may, in addition to the matters specified in subsection (1) above, make any order that it thinks appropriate. 25
- (3) In determining an appeal the Tribunal shall have regard to any relevant provision of a code of practice issued by the Commission under section 24.
- (4) In determining an appeal the Tribunal may take account of evidence which was not available to the Commission.
- (5) Section 139 applies to a decision or action of the Commission following remittal under subsection (1)(e) above. 30
- 143 Stay pending appeal**
- (1) A decision or other action under Part 5 or 6 shall have no effect while an appeal under section 139 –
- (a) could be brought (ignoring the possibility of an appeal out of time under section 140(2)), or 35
 - (b) has been brought and has not yet been either finally determined or abandoned.
- (2) But when making a decision or taking other action under Part 5 or 6 the Commission may direct that subsection (1) shall not apply. 40
- 144 Rules**
- (1) The Lord Chancellor may make rules –

- (a) regulating the exercise of a right of appeal to the Tribunal;
 - (b) about practice and procedure in relation to proceedings before the Tribunal.
- (2) Rules under this section may, in particular, specify that a class of person is or is not to be treated as a party to proceedings before the Tribunal— 5
- (a) for the purpose of section 141(1);
 - (b) for another specified purpose.
- (3) Rules under this section may, in particular, provide—
- (a) that a person commits an offence if without reasonable excuse he fails to comply with a requirement of a specified kind imposed by or in accordance with the rules, and 10
 - (b) that a person guilty of the offence shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

145 Fees

- (1) The Lord Chancellor may, having consulted the Secretary of State, by regulations provide for a fee to be charged for bringing an appeal to the Tribunal. 15
- (2) The regulations may, in particular—
- (a) provide for different fees to be charged for different classes of case or in different circumstances; 20
 - (b) enable the Tribunal to reduce or waive a fee having regard to an appellant's circumstances.

146 Legal assistance

- (1) The Lord Chancellor may by regulations establish a scheme for the provision of legal assistance to appellants to the Tribunal. 25
- (2) Regulations under subsection (1) may, in particular—
- (a) specify the kinds of assistance that may be provided;
 - (b) specify the classes of person by whom assistance may be provided;
 - (c) make provision about applications to the Tribunal for assistance;
 - (d) require, or enable the Tribunal to require, the provision of information by an applicant for assistance; 30
 - (e) enable the Tribunal to determine eligibility for assistance by reference to criteria specified in the regulations;
 - (f) make provision for an appeal against refusal of assistance;
 - (g) enable assistance to be granted subject to conditions or restrictions imposed by the Tribunal (which may, in particular, include conditions requiring— 35
 - (i) a person receiving assistance to contribute towards its cost;
 - (ii) a person who received assistance to defray all or part of its cost in specified circumstances); 40
 - (h) enable the Tribunal to vary or revoke a decision that assistance should be provided;
 - (i) include provision for enforcement of a duty of payment arising under the regulations (which may, in particular, confer jurisdiction on a court). 45

- (3) Regulations under subsection (1) may, in particular, apply generally or only –
- (a) in relation to specified kinds of appeal;
 - (b) in specified circumstances.
- (4) The Lord Chancellor shall defray the costs of assistance provided under the scheme (subject to subsection (2)(g)). 5
- (5) Regulations under this section shall have no effect in relation to proceedings heard or to be heard by the Tribunal sitting in Scotland.

147 Enforcement of costs orders

- (1) Where the Tribunal has ordered the payment of the costs of one party to an appeal (“the judgment creditor”) by another party (“the judgment debtor”), payment of those costs may be enforced by the judgment creditor in accordance with subsection (2). 10
- (2) The judgment creditor may, on application to the county court for the district in which the judgment debtor is resident (or, if the judgment debtor is a company, where it has its registered office), enforce payment in accordance with Part V of the County Courts Act 1984 (c. 28) as if the costs were a sum payable under an order of that court. 15

PART 8

PREMISES LICENCES

The licence 20

148 Nature of licence

- (1) A premises licence is a licence which states that it authorises premises to be used for –
- (a) the operation of a casino (a “casino premises licence”),
 - (b) the provision of facilities for the playing of bingo (a “bingo premises licence”), 25
 - (c) making Category B gaming machines available for use (an “adult gaming centre premises licence”),
 - (d) making Category C gaming machines available for use (a “family entertainment centre premises licence”), or 30
 - (e) the provision of facilities for betting, whether by making or accepting bets, by acting as a betting intermediary or by providing other facilities for the making or accepting of bets (a “betting premises licence”).
- (2) A casino premises licence is –
- (a) a “regional casino premises licence” if it relates to a regional casino, 35
 - (b) a “large casino premises licence” if it relates to a large casino, and
 - (c) a “small casino premises licence” if it relates to a small casino.
- (3) Neither a premises licence nor any provision of this Part disappplies or provides a defence to the offence under section 32.

149 Form of licence

- (1) A premises licence must –
 - (a) specify the name of the person to whom it is issued,
 - (b) specify a home or business address of that person,
 - (c) specify the premises to which it relates, 5
 - (d) specify the activities for which it authorises the premises to be used,
 - (e) specify any condition attached by the licensing authority under section 167(1)(a),
 - (f) specify any exclusion of a default condition effected by the licensing authority under section 167(1)(b), 10
 - (g) include a plan of the premises, and
 - (h) if a period is prescribed under section 185 at the end of which the licence will expire (unless renewed or terminated earlier), specify the period.
- (2) The Secretary of State may make regulations about – 15
 - (a) the form of a premises licence, and
 - (b) the content of a premises licence (which may, in particular, require the inclusion of information about mandatory conditions, default conditions or conditions attached to the licence by virtue of a provision of this Part). 20
- (3) In relation to a premises licence issued in Scotland, subsection (2) shall have effect as if the reference to the Secretary of State were a reference to the Scottish Ministers.

150 Combined licence, &c.

- (1) A premises licence – 25
 - (a) may not authorise the use of premises for activities of more than one of the kinds specified in section 148(a) to (e) (subject to sections 170 to 172 and subsection (2) below), and
 - (b) may not be issued in respect of premises if a premises licence already has effect in relation to the premises (subject to subsection (3)). 30
- (2) Subsection (1)(a) does not apply in the case of a track.
- (3) More than one premises licence may have effect in relation to a track provided that –
 - (a) each licence relates to a specified area of the track, and
 - (b) not more than one premises licence has effect in relation to any area of the track. 35
- (4) If a person applies for a premises licence in respect of an area of a track (“a subsidiary licence”) and a premises licence already has effect in respect of the whole track or a part of the track that includes that area (“the main licence”) –
 - (a) the application for the subsidiary licence must be accompanied by an application under section 181 to vary the main licence so that it does not have effect in relation to the area to which the subsidiary licence is to relate, and 40
 - (b) the application for the subsidiary licence may be granted only after, or together with, the grant of the application for variation. 45

*Licensing authorities' functions***151 Principles to be applied**

- (1) In exercising their functions under this Part a licensing authority shall aim to permit the use of premises for gambling in so far as the authority think it –
- (a) in accordance with any relevant code of practice under section 24, 5
 - (b) in accordance with any relevant guidance issued by the Commission under section 25,
 - (c) reasonably consistent with the licensing objectives (subject to paragraphs (a) and (b)), and
 - (d) in accordance with the statement published by the authority under section 343 (subject to paragraphs (a) to (c)). 10
- (2) In determining whether to grant a premises licence a licensing authority may not have regard to the expected demand for the facilities which it is proposed to provide.
- (3) This section is subject to section 164. 15

152 Delegation of licensing authority functions: England and Wales

- (1) The functions under this Part of a licensing authority in England and Wales are by virtue of this subsection delegated to the licensing committee of the authority established under section 6 of the Licensing Act 2003 (c. 17).
- (2) But – 20
- (a) a licensing authority's power under section 164 is not delegated by virtue of subsection (1) and may not be delegated by the authority,
 - (b) a licensing authority's functions under section 206 are not delegated by virtue of subsection (1) but may be delegated by the authority, and
 - (c) a licensing authority's function under section 343 is not delegated by virtue of subsection (1) and may not be delegated by the authority. 25
- (3) The following provisions of the Licensing Act 2003 shall apply in relation to a function delegated to a licensing committee by virtue of subsection (1) or (2)(b) as they apply in relation to a function delegated under that Act –
- (a) section 7(9) (referral back to licensing authority), and 30
 - (b) section 10 (sub-delegation).
- (4) In the application of section 10(4) of that Act (matters not to be delegated to officer) by virtue of subsection (3) above, the following shall be substituted for the list of functions –
- (a) determination of an application for a premises licence in respect of which representations have been made under section 159 (and not withdrawn), 35
 - (b) determination of an application for the variation of a premises licence in respect of which representations have been made under section 159 as applied by section 181 (and not withdrawn), 40
 - (c) determination of an application for transfer following representations by the Commission,
 - (d) determination of an application for a provisional statement under section 198 in respect of which representations have been made under section 159 as applied by section 198 (and not withdrawn), and 45

- (e) a review of a premises licence under section 195.
- (5) The provisions of section 9 of that Act and regulations under it apply to proceedings of licensing committees and their sub-committees in relation to the exercise of functions under this Part; and for that purpose regulations may, in particular, make provision which applies – 5
 - (a) only in relation to functions under that Act,
 - (b) only in relation to functions under this Part, or
 - (c) differently in relation to functions under that Act and functions under this Part.
- 153 Delegation of functions under Part 8: Scotland** 10
- (1) Subject to subsection (2), a licensing authority in Scotland may arrange for the discharge of any of their functions under this Part by a committee of the authority, a member or members of the authority, the clerk of the authority or any person appointed to assist the clerk.
- (2) A licensing authority are not to make any arrangements under subsection (1) – 15
 - (a) in relation to their power under section 161 or their function under section 337, or
 - (b) for the discharge by the clerk of the authority or any person appointed to assist the clerk of any of the authority’s functions mentioned in paragraphs (a) to (e) of section 150(4). 20
- (3) The procedures applicable to the proceedings of licensing boards in the exercise or their functions under the Licensing (Scotland) Act 1976 apply to the proceedings of those boards in the exercise of their functions under this Part: and for that purpose regulations made by the Scottish Ministers may, in particular, make provision which applies – 25
 - (a) only in relation to functions under that Act,
 - (b) only in relation to functions under this Part, or
 - (c) differently in relation to functions under that Act and functions under this Part.
- 154 Register** 30
- (1) A licensing authority shall –
 - (a) maintain a register of premises licences issued by the authority together with such other information as may be prescribed,
 - (b) make the register and information available for inspection by members of the public at all reasonable times, and 35
 - (c) make arrangements for the provision of a copy of an entry in the register, or of information, to a member of the public on request.
- (2) A licensing authority may refuse to provide a copy of an entry or of information unless the person seeking it pays a reasonable fee specified by the authority. 40
- (3) The Secretary of State may make regulations about –
 - (a) the form of the register;
 - (b) the manner in which it is maintained.
- (4) The Secretary of State may make regulations –

- (a) requiring licensing authorities to give to the Commission specified information about premises licences issued by them,
- (b) requiring the Commission to maintain a register of the information provided to it under paragraph (a),
- (c) requiring the Commission to grant access to the register to members of the public (without charge), 5
- (d) requiring the Commission to make copies of entries available on request, and on payment of a reasonable fee, to members of the public, and
- (e) excusing licensing authorities, wholly or partly, from compliance with subsection (1). 10

Other relevant persons

155 Responsible authorities

- For the purposes of this Part the following are responsible authorities in relation to premises – 15
- (a) a licensing authority in England and Wales in whose area the premises are wholly or partly situated,
 - (b) the Commission,
 - (c) either –
 - (i) in England and Wales, the chief officer of police for a police area in which the premises are wholly or partly situated, or 20
 - (ii) in Scotland, the chief constable of the police force maintained for a police area in which the premises are wholly or partly situated,
 - (d) the fire authority for an area in which the premises are wholly or partly situated, 25
 - (e) either –
 - (i) in England and Wales, the local planning authority, in accordance with Part I of the Town and Country Planning Act 1990 (c. 8), for an area in which the premises are wholly or partly situated, or 30
 - (ii) in Scotland, the planning authority, in accordance with Part 1 of the Town and Country Planning (Scotland) Act 1997 (c. 8), for an area in which the premises are wholly or partly situated,
 - (f) the council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c. 39) for an area in which the premises are wholly or partly situated, 35
 - (g) an authority which has functions by virtue of an enactment in respect of minimising or preventing the risk of pollution of the environment or of harm to human health in an area in which the premises are wholly or partly situated, 40
 - (h) a body which is designated in writing for the purposes of this paragraph, by the licensing authority for an area in which the premises are wholly or partly situated, as competent to advise the authority about the protection of children from harm, 45
 - (i) Her Majesty’s Commissioners of Customs and Excise, and
 - (j) any other person prescribed for the purposes of this section by regulations made by the Secretary of State.

156 Interested party

- For the purposes of this Part a person is an interested party in relation to a premises licence or in relation to an application for or in respect of a premises licence if, in the opinion of the licensing authority which issues the licence or to which the application is made, the person –
- (a) lives sufficiently close to the premises to be likely to be affected by the authorised activities,
 - (b) has business interests that might be affected by the authorised activities, or
 - (c) represents persons who satisfy paragraph (a) or (b).

Application for licence

157 Making of application

- (1) A person may apply to a licensing authority for a premises licence to be issued to him authorising the use of premises to carry on an activity listed in section 36(1). 15
- (2) An application must be made to a licensing authority in whose area the premises are wholly or partly situated.
- (3) An application may be made only by a person who –
 - (a) holds an operating licence which authorises him to carry on the activity in respect of which the premises licence is sought, or 20
 - (b) has made an application, which has not yet been determined, for an operating licence which authorises him to carry on the activity in respect of which the premises licence is sought.
- (4) But subsection (3) does not apply to an application for a premises licence which authorises a track to be used for accepting bets (and which does not also, otherwise than by virtue of section 170, authorise it to be used for another purpose). 25
- (5) An application may be made only by a person who has a right to occupy the premises to which the application relates.
- (6) An application must – 30
 - (a) be made in the prescribed form and manner,
 - (b) contain or be accompanied by the prescribed information or documents, and
 - (c) be accompanied by the prescribed fee.
- (7) Regulations prescribing a matter for the purposes of this section may, in particular, make different provision for – 35
 - (a) applications in respect of different classes of activity, or
 - (b) different circumstances.
- (8) In this section “prescribed” means – 40
 - (a) in relation to applications to authorities in England and Wales, prescribed by the Secretary of State, and
 - (b) in relation to applications to authorities in Scotland, prescribed by the Scottish Ministers.

158 Notice of application

- (1) The Secretary of State may make regulations requiring an applicant for a premises licence –
- (a) to publish notice of his application;
 - (b) to give notice of his application to the responsible authorities in relation to the premises; 5
 - (c) to give notice of his application to other persons.
- (2) Regulations under subsection (1) shall include provision –
- (a) about the manner and form in which notice is to be published or given,
 - (b) about the period of time within which notice is to be published or given, and 10
 - (c) for the consequences of failure to comply with the regulations.
- (3) In so far as this section has effect in relation to applications to authorities in Scotland, the reference to the Secretary of State shall have effect as a reference to the Scottish Ministers. 15

159 Representations

- (1) Where an application is made to a licensing authority for a premises licence, an interested party or responsible authority in relation to the premises may make representations in writing to the licensing authority.
- (2) Representations under subsection (1) must be made within such period as the Secretary of State shall prescribe by regulations. 20
- (3) In so far as this section has effect in relation to applications to authorities in Scotland, the reference to the Secretary of State shall have effect as a reference to the Scottish Ministers.

Determination of application 25

160 Requirement for hearing

- (1) In determining an application for a premises licence a licensing authority must hold a hearing if –
- (a) an interested party or responsible authority has made (and not withdrawn) representations about the application under section 159, 30
 - (b) the authority propose to attach a condition to the licence under section 167, or
 - (c) the authority propose to exclude under section 167(1)(b) a condition that would otherwise be attached to the licence under section 166.
- (2) But a licensing authority may determine an application for a premises licence without a hearing despite subsection (1) with the consent of – 35
- (a) the applicant, and
 - (b) any interested party or responsible authority who has made (and not withdrawn) representations about the application under section 159.
- (3) A licensing authority may also determine an application for a premises licence without a hearing despite subsection (1)(a) if the authority think that the representations made under section 159 – 40
- (a) are vexatious,

- (b) are frivolous, or
 - (c) will certainly not influence the authority’s determination of the application.
- (4) If a licensing authority propose to determine an application in reliance on subsection (3) they shall as soon as is reasonably practicable notify any person who made representations under section 159. 5

161 Determination of application

- (1) On considering an application for a premises licence (whether at a hearing or not) a licensing authority shall –
 - (a) grant it, or 10
 - (b) reject it.
- (2) A licensing authority shall not determine an application for a premises licence made in reliance on section 157(3)(b) until the relevant operating licence has been issued (in a form which authorises the applicant to carry on the activity in respect of which the premises licence is sought). 15

162 Grant of application

- (1) Where a licensing authority grant an application for a premises licence they shall as soon as is reasonably practicable –
 - (a) give notice of the grant to –
 - (i) the applicant, 20
 - (ii) the Commission,
 - (iii) any person who made representations about the application under section 159,
 - (iv) in England and Wales, the chief officer of police for any area in which the premises are wholly or partly situated, 25
 - (v) in Scotland, the chief constable of the police force maintained for a police area in which the premises are wholly or partly situated, and
 - (vi) Her Majesty’s Commissioners of Customs and Excise,
 - (b) issue a premises licence to the applicant, and 30
 - (c) give the applicant a summary of the terms and conditions of the licence in the prescribed form.
- (2) A notice under subsection (1)(a) –
 - (a) must be in the prescribed form,
 - (b) if the licensing authority have attached a condition to the licence under section 167(1)(a) or excluded under section 167(1)(b) a condition that would otherwise have attached by virtue of section 166, must give the authority’s reasons, and 35
 - (c) if representations were made about the application under section 159, must give the authority’s response to the representations. 40
- (3) In this section “prescribed” means –
 - (a) in relation to authorities in England and Wales, prescribed by the Secretary of State, and
 - (b) in relation to authorities in Scotland, prescribed by the Scottish Ministers. 45

163 Rejection of application

- (1) Where a licensing authority reject an application for a premises licence they shall as soon as is reasonably practicable give notice of the rejection to –
- (a) the applicant,
 - (b) the Commission, 5
 - (c) any person who made representations about the application under section 159,
 - (d) either –
 - (i) in England and Wales, the chief officer of police for any area in which the premises are wholly or partly situated, or 10
 - (ii) in Scotland, the chief constable of the police force maintained for a police area in which the premises are wholly or partly situated, and
 - (e) Her Majesty’s Commissioners of Customs and Excise.
- (2) A notice under subsection (1) – 15
- (a) must be in the prescribed form, and
 - (b) must give the authority’s reasons for rejecting the application.
- (3) In this section “prescribed” means –
- (a) in relation to authorities in England and Wales, prescribed by the Secretary of State, and 20
 - (b) in relation to authorities in Scotland, prescribed by the Scottish Ministers.

164 Resolution not to issue casino licences

- (1) A licensing authority may resolve not to issue casino premises licences.
- (2) In passing a resolution under subsection (1) a licensing authority may have regard to any principle or matter. 25
- (3) A resolution under subsection (1) –
- (a) must apply to the issue of casino premises licences generally,
 - (b) must specify the date on which it takes effect,
 - (c) may be revoked by a further resolution, and 30
 - (d) shall lapse at the end of the period of three years beginning with the date on which it takes effect (without prejudice to the ability to pass a new resolution).
- (4) A resolution under subsection (1) – 35
- (a) may be passed whether or not the licensing authority has already issued casino premises licences,
 - (b) shall have no effect in relation to a casino premises licence issued before the resolution takes effect,
 - (c) shall have no effect in relation to premises in respect of which a provisional statement relating to the operation of a casino is in force when the resolution takes effect, 40
 - (d) shall have no effect in relation to anything converted into a casino premises licence by virtue of Schedule 18,
 - (e) shall not affect the issuing of a casino premises licence in accordance with a requirement by virtue of Schedule 18, and 45

- (f) may not be taken into account in conducting a review of a casino premises licence under section 195.
- (5) A resolution under subsection (1) shall be published by being included in a statement or revision under section 343.
- (6) Section 151 is subject to this section. 5

Conditions

165 Mandatory conditions

- (1) The Secretary of State may by regulations provide for a specified condition to be attached to premises licences.
- (2) Regulations under this section may, in particular – 10
 - (a) make provision which applies generally, only to premises licences in a specified class or only in specified circumstances;
 - (b) make different provision for different classes of licence or for different circumstances.
- (3) In relation to premises licences issued in Scotland subsection (1) shall have effect as if the reference to the Secretary of State were a reference to the Scottish Ministers. 15

166 Default conditions

- (1) The Secretary of State may by regulations prescribe for a specified condition to be attached to any premises licence unless excluded by the authority who issue the licence. 20
- (2) Regulations under this section may, in particular –
 - (a) make provision which applies generally, only to premises licences in a specified class or only in specified circumstances;
 - (b) make different provision for different classes of licence or for different circumstances. 25
- (3) In relation to a premises licence issued by an authority in Scotland subsection (1) shall have effect as if the reference to the Secretary of State were a reference to the Scottish Ministers.

167 Conditions imposed or excluded by licensing authority 30

- (1) Where a licensing authority issue a premises licence they may –
 - (a) attach a condition to the licence;
 - (b) exclude a condition that would otherwise be attached to the licence by virtue of section 166.
- (2) A condition attached to the licence under subsection (1)(a) may, in particular, address a matter addressed by a condition excluded under subsection (1)(b). 35
- (3) A condition attached to the licence under subsection (1)(a) may apply in relation to the premises generally or only in relation to a specified part of the premises.

- (4) A licensing authority may not attach a condition to a premises licence which prevents compliance with a condition of the operating licence which authorises the holder to carry out the activity in respect of which the premises licence is granted.

168 Membership 5

A premises licence may not be subject to a condition (whether imposed by virtue of section 165, 166 or 167) –

- (a) requiring all or part of the premises, or any activity taking place on the premises, to be operated or carried on as a club or other body with membership, or 10
- (b) restricting use of any part of the premises wholly or partly by reference to membership of a club or other body.

169 Stakes, &c.

A premises licence may not be subject to a condition (whether imposed by virtue of section 165, 166 or 167) imposing limits on – 15

- (a) stakes,
- (b) fees,
- (c) winnings, or
- (d) prizes.

Specific cases 20

170 Gaming machines

- (1) An adult gaming centre premises licence shall, by virtue of this section, authorise the holder –
- (a) to make up to four Category B gaming machines available for use on the premises, 25
 - (b) to make any number of Category C gaming machines available for use on the premises, and
 - (c) to make any number of Category D gaming machines available for use on the premises.
- (2) A family entertainment centre premises licence shall, by virtue of this section, authorise the holder – 30
- (a) to make any number of Category C gaming machines available for use on the premises, and
 - (b) to make any number of Category D gaming machines available for use on the premises. 35
- (3) A casino premises licence for a regional casino using at least 40 gaming tables shall by virtue of this section authorise the holder to make gaming machines available for use on the premises provided that –
- (a) each gaming machine is of Category A, B, C or D, and
 - (b) the number of gaming machines – 40
 - (i) is not more than 25 times the number of gaming tables used in the casino, and
 - (ii) is not more than 1250.

-
- (4) A casino premises licence for a large casino using at least one gaming table, or for a regional casino using fewer than 40 gaming tables, shall by virtue of this section authorise the holder to make gaming machines available for use on the premises provided that –
- (a) each gaming machine is of Category B, C or D, and 5
 - (b) the number of gaming machines –
 - (i) is not more than 5 times the number of gaming tables used in the casino, and
 - (ii) is not more than 150.
- (5) A casino premises licence for a small casino using at least one gaming table shall by virtue of this section authorise the holder to make gaming machines available for use on the premises provided that –
- (a) each gaming machine is of Category B, C or D, and 10
 - (b) the number of gaming machines –
 - (i) is not more than twice the number of gaming tables used in the casino, and 15
 - (ii) is not more than 80.
- (6) The Secretary of State may by regulations –
- (a) define “gaming table” for the purposes of subsections (3) to (5);
 - (b) provide that a gaming table is to be treated as being used in a casino for the purposes of those subsections only if used –
 - (i) for a specified purpose,
 - (ii) in specified circumstances, and
 - (iii) to a specified extent;
 - (c) provide for a number of tables are to be treated as if they were a single gaming table in specified circumstances. 25
- (7) A bingo premises licence shall, by virtue of this section, authorise the holder –
- (a) to make up to four Category B gaming machines available for use on the premises,
 - (b) to make any number of Category C gaming machines available for use on the premises, and 30
 - (c) to make any number of Category D gaming machines available for use on the premises.
- (8) A betting premises licence shall, by virtue of this section, authorise the holder to make up to four gaming machines, each of which must be of Category B, C or D, available for use. 35
- (9) But subsection (8) applies to a betting premises licence in respect of a track only if the holder also holds a pool betting operating licence.
- (10) A premises licence may not (whether by way of condition or otherwise) –
- (a) make provision about the number or categories of gaming machine that may be made available for use that contradicts a provision of this section, 40
 - (b) make provision that contradicts a provision of regulations under section 230, 234 or 235, or
 - (c) make provision of a kind prohibited by regulations under any of those sections. 45

- (11) The Secretary of State may by order amend a provision of this section so as to vary –
- (a) the number of machines authorised by a specified kind of premises licence;
 - (b) the category of machines authorised by a specified kind of premises licence. 5

171 Virtual gaming

- (1) The kinds of premises licence specified in subsection (2) shall by virtue of this section authorise the holder to make facilities available for betting on the outcome of a virtual game, race, competition or other event or process. 10
- (2) Those kinds of licence are –
- (a) a casino premises licence, and
 - (b) a betting premises licence.

172 Casino premises licence

- (1) A casino premises licence may be issued only in respect of – 15
- (a) a regional casino,
 - (b) a large casino, or
 - (c) a small casino.
- (2) A casino premises licence shall, by virtue of this section and subject to subsection (3), authorise the holder to use the premises to make available any number of games of chance other than casino games. 20
- (3) A casino premises licence shall, by virtue of this subsection and subject to subsection (4), authorise the holder, and any person authorised by him in writing, to use the premises for the provision of facilities for – 25
- (a) bingo,
 - (b) betting, or
 - (c) both.
- (4) In respect of a small casino, subsection (3) shall not apply in so far as it authorises bingo.
- (5) The Secretary of State may by order repeal subsection (4) (and this subsection). 30
- (6) Regulations under section 165 or 166 may, in particular, make provision in relation to casino premises licences, or in relation to a class of casino premises licence, for a condition requiring the provision of recreational or other facilities of a specified kind.
- (7) Subsection (6) is without prejudice to the generality of sections 165, 166 and 167. 35

173 Casino premises licence: overall limits

- (1) No more than eight casino premises licences may have effect at any time in respect of regional casinos.
- (2) No more than eight casino premises licences may have effect at any time in respect of large casinos. 40

- (3) No more than eight casino premises licences may have effect at any time in respect of small casinos.
- (4) The Secretary of State shall, having consulted the Scottish Ministers and the National Assembly for Wales, by order make provision for determining the geographical distribution of casino premises licences within the limits specified in subsections (1) to (3); for which purpose the order shall –
 - (a) specify which licensing authorities may issue casino premises licences of a specified kind, and
 - (b) in respect of each specified authority, specify the number of casino premises licences of each kind issued by the authority that may have effect at any time.
- (5) An application for a casino premises licence may not be made to a licensing authority if subsections (1) to (3) and the order under subsection (4) would prevent the authority from granting the application.
- (6) An application for a provisional statement may not be made to a licensing authority if it relates to a casino and is made at a time when subsections (1) to (3) and the order under subsection (4) would prevent the authority from granting a casino premises licence in response to an application made in reliance on the provisional statement.
- (7) Schedule 9 (which makes provision about the treatment of applications for casino premises licences and provisional statements) shall have effect.
- (8) The Secretary of State may by order –
 - (a) amend any of subsections (1), (2) and (3) so as to substitute a new maximum number of casino premises licences;
 - (b) repeal any of subsections (1), (2) and (3).

174 Door supervision

- (1) Where a condition for door supervision is attached to a premises licence (whether by virtue of section 165, 166 or 167) the licence shall also by virtue of this section be subject to the condition specified in subsection (3).
- (2) In subsection (1) “condition for door supervision” means a condition requiring that one or more persons be responsible for guarding the premises against unauthorised access or occupation, against outbreaks of disorder or against damage, where the guarding will amount to an activity of a security operative for the purposes of paragraph 2(1)(a) of Schedule 2 to the Private Security Industry Act 2001 (c. 12).
- (3) The condition mentioned at the end of subsection (1) is the condition that the activity mentioned in subsection (2) be performed by a person who holds a licence which –
 - (a) is granted by the Security Industry Authority, and
 - (b) authorises the performance of the activity.

175 Pool betting on track

- (1) A betting premises licence in respect of a track may not authorise the acceptance of bets by way of pool betting except in a case to which subsection (2) applies.

- (2) This subsection applies to the acceptance of bets, by way of pool betting on horse-racing or dog-racing –
- (a) by the holder of the betting premises licence, or
 - (b) in accordance with arrangements made by him.
- (3) The Secretary of State may by order amend this section so as to – 5
- (a) add an exception to subsection (1),
 - (b) amend an exception to subsection (1), or
 - (c) remove an exception to subsection (1).

176 Betting machines

- (1) A condition of a betting premises licence may relate to – 10
- (a) the number of machines used on the premises for the purpose of making or accepting bets;
 - (b) the nature of those machines;
 - (c) the circumstances in which those machines are made available for use.
- (2) A condition of a casino premises licence may relate to – 15
- (a) the number of machines used on the premises for the purpose of making or accepting bets;
 - (b) the nature of those machines;
 - (c) the circumstances in which those machines are made available for use.
- (3) In this section “condition” means a condition imposed by virtue of section section 165, 166 or 167. 20

177 Exclusion of children from track areas

- (1) A premises licence in respect of a track shall by virtue of this section be subject to the condition that the licensee shall ensure that children and young persons are excluded from – 25
- (a) any area where facilities for betting are provided, and
 - (b) any area where a gaming machine, other than a Category D machine, is situated.
- (2) But subsection (1)(a) – 30
- (a) shall not apply to a dog-race track on a day on which dog-racing takes place, or is expected to take place, on the track, and
 - (b) shall not apply to a horse-race course on a day on which horse-racing takes place, or is expected to take place, on the course.
- (3) For the purposes of this section a reference to the area where facilities are provided or where a machine is situated is a reference to any place in which it is possible to take advantage of the facilities or use the machine. 35
- (4) The Secretary of State may by order amend this section so as to – 40
- (a) provide an additional exception to subsection (1)(a),
 - (b) remove an exception to subsection (1)(a), or
 - (c) amend an exception to subsection (1)(a).

Maintenance

178 Annual fee

- (1) The holder of a premises licence –
 - (a) shall pay a first annual fee to the licensing authority within such period after the issue of the licence as may be prescribed, and 5
 - (b) shall pay an annual fee to the licensing authority before each anniversary of the issue of the licence.
- (2) In this section “annual fee” means a fee of such amount as may be prescribed by regulations made –
 - (a) in relation to premises licences issued by authorities in England and Wales, by the Secretary of State, and 10
 - (b) in relation to premises licences issued by authorities in Scotland, by the Scottish Ministers.
- (3) Regulations prescribing the annual fee may, in particular, make different provision for – 15
 - (a) licences authorising different classes of activity, or
 - (b) different circumstances.
- (4) The Secretary of State may by regulations –
 - (a) require a licensing authority to refund a prescribed part of an annual fee paid under this section where a premises licence ceases to have effect otherwise than on or immediately before an anniversary of its issue, 20
 - (b) require a licensing authority to refund a prescribed part of an annual fee paid under this section if a premises licence is altered under section 180, 181, 182 or 196 and the annual fee for the licence as altered is less than the annual fee for the licence before alteration, and 25
 - (c) require a licensee to pay an additional amount by way of annual fee if a premises licence is altered under section 180, 181, 182 or 196 and the annual fee for the licence as altered is more than the annual fee for the licence before alteration. 30
- (5) In relation to premises licences issued by authorities in Scotland, subsection (4) shall have effect as if the reference to the Secretary of State were a reference to the Scottish Ministers.
- (6) Subsection (1)(b) does not apply in relation to an anniversary of the issue of a licence on or immediately before which the licence expires in accordance with regulations under section 185(1). 35

179 Availability of licence

- (1) The holder of a premises licence shall –
 - (a) keep the licence on the premises, and
 - (b) arrange for the licence to be made available on request to – 40
 - (i) a constable,
 - (ii) an enforcement officer, or
 - (iii) an authorised local authority officer.

- (2) A person commits an offence if he fails without reasonable excuse to comply with subsection (1).
- (3) A person guilty of an offence under subsection (2) shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

180 Change of circumstance 5

- (1) If the holder of a premises licence ceases to reside or attend at the address specified in the licence under section 149(1)(b) he shall as soon as is reasonably practicable –
 - (a) notify the licensing authority, and
 - (b) inform the licensing authority of a home or business address at which he resides or attends. 10
- (2) The Secretary of State may make regulations requiring the holder of a premises licence –
 - (a) to notify the licensing authority of any change of circumstance of a prescribed kind in relation to him or to an authorised activity, and 15
 - (b) to give the licensing authority prescribed details of the change.
- (3) If a change of circumstance notified under or by virtue of this section falsifies information contained in the premises licence in accordance with section 149, the notification must be accompanied by –
 - (a) the licence, or 20
 - (b) an application under section 184 for a copy of the licence.
- (4) Where notification is accompanied by the licence, the licensing authority shall –
 - (a) make such alteration to the information contained in the licence as appears to them to be required by the change in circumstance, and 25
 - (b) return the licence to the licensee.
- (5) Where the notification is accompanied by an application for a copy of the licence, the licensing authority shall, if they grant the application, issue the copy in a form which appears to them to reflect the change in circumstance.
- (6) The holder of a premises licence commits an offence if he fails without reasonable excuse to comply with a provision of this section or of regulations made under this section. 30
- (7) A person guilty of an offence under subsection (6) shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.
- (8) This section does not prevent the imposition of a requirement to notify the licensing authority of a specified change of circumstance by way of the attachment of a condition to a premises licence. 35

181 Application to vary licence

- (1) The holder of a premises licence may apply to the licensing authority to vary the licence by – 40
 - (a) adding, amending or removing an authorised activity,
 - (b) amending another detail of the licence,
 - (c) excluding a condition attached by virtue of section 166, or

- (d) adding, amending or removing a condition attached to the licence under section 167.
- (2) A licence may not be varied under this section so as to relate to premises to which it did not previously relate.
- (3) The provisions of this Part shall apply in relation to an application for variation as they apply in relation to an application for a premises licence – 5
 - (a) subject to the provisions of this section, and
 - (b) with any other necessary modifications.
- (4) Regulations under this Part which relate to an application for a premises licence may make – 10
 - (a) provision which applies only in the case of an application for variation;
 - (b) provision which does not apply in the case of an application for variation;
 - (c) different provision in relation to an application for variation from that made in relation to an application for a premises licence; 15
 - (d) different provision in relation to applications for variations of different kinds.
- (5) An application for variation must (in addition to anything required by section 157) be accompanied by a statement of the variation sought.
- (6) An application for variation must (in addition to anything required by section 157) also be accompanied by – 20
 - (a) the licence to be varied, or
 - (b) both – 25
 - (i) a statement explaining why it is not reasonably practicable to produce the licence, and
 - (ii) an application under section 184 for the issue of a copy of the licence.
- (7) In granting an application for variation a licensing authority – 30
 - (a) shall specify a time when the variation shall begin to have effect, and
 - (b) may make transitional provision.

182 Transfer

- (1) A person may apply to a licensing authority for a premises licence to be transferred to him.
- (2) The provisions of this Part shall apply in relation to an application for transfer as they apply in relation to an application for a premises licence – 35
 - (a) subject to the provisions of this section and section 183, and
 - (b) with any other necessary modifications.
- (3) An application for transfer must (in addition to anything required by section 157) – 40
 - (a) specify the time when the transfer is to take effect, and
 - (b) be accompanied by a written statement by the licensee consenting to the transfer.

- (4) A licensing authority shall grant an application for transfer unless they think it would be wrong to do so having regard to representations made under section 159 (as applied by subsection (2) above).
- (5) On the grant of an application for the transfer of a premises licence the licensing authority – 5
- (a) shall alter the licence so that the applicant for the transfer becomes the licensee,
 - (b) shall specify in the licence the time when the transfer takes effect (being either the time specified in the application under subsection (3) above or, if later, the time when the application is granted), and 10
 - (c) shall make such other alteration of the licence as appears to them to be required (which may, in particular, include an alteration to reflect a decision of the authority under section 167 as applied by subsection (2) above to make new or varied provision for the attachment or exclusion of conditions). 15
- (6) A licence to which a condition is attached under section 164 for the purpose of giving effect to an agreement entered into under paragraph 5(3)(b) of Schedule 9 (“the original agreement”) shall not be transferred unless –
- (a) the transferee enters into an agreement (“the new agreement”) which appears to the licensing authority to have substantially the same effect as the original agreement, and 20
 - (b) the condition is altered so as to give effect to the new agreement.

183 Transfer: supplemental

- (1) If an application for transfer under section 182 states that the applicant has failed to contact the licensee having taken all reasonable steps to do so, the licensing authority shall – 25
- (a) disapply section 182(3)(b) and take all reasonable steps to notify the licensee, or
 - (b) determine not to disapply section 182(3)(b) and notify the applicant of their determination and the reasons for it. 30
- (2) An application for transfer must (in addition to anything required by section 157) be accompanied by –
- (a) the licence, or
 - (b) both – 35
 - (i) a statement explaining why it is not reasonably practicable to produce the licence, and
 - (ii) an application by the licensee under section 184 for the issue of a copy of the licence.
- (3) In relation to an application for transfer to which subsection (1) applies, for the purposes of any application under section 184 required in accordance with subsection (2)(b)(ii) above – 40
- (a) the application under that section shall be made by the applicant for transfer, and
 - (b) a reference to the licence being lost, stolen or damaged shall be treated as a reference to the licence being unavailable to the applicant for transfer. 45

- (4) Regulations under section 158, as they have effect in relation to applications for transfer by virtue of section 182(2), may require notice to be given to specified responsible authorities (and not to all responsible authorities).
- (5) Section 159 shall have effect in relation to an application for transfer with the omission of the reference to interested parties. 5
- (6) If an application for the transfer of a premises licence includes a request that this subsection apply, the licence shall have effect as if the applicant for transfer were the licensee during the period –
 - (a) beginning with the receipt of the application for transfer by the licensing authority, and 10
 - (b) ending with the determination of the application by the licensing authority.

184 Copy of licence

- (1) Where a premises licence issued, or a summary given, under section 162 is lost, stolen or damaged, the licensee may apply to the licensing authority for a copy. 15
- (2) An application under subsection (1) must be accompanied by the prescribed fee.
- (3) A licensing authority shall consider an application under this section as soon as is reasonably practicable and shall grant it if satisfied –
 - (a) that the licence or summary to which the application relates has been lost, stolen or damaged, and 20
 - (b) where the licence or summary has been lost or stolen, that the loss or theft has been reported to the police.
- (4) As soon as is reasonably practicable after granting an application under this section a licensing authority shall issue a copy of the licence or summary to the applicant – 25
 - (a) certified by the authority as a true copy, and
 - (b) in, or in relation to, the form in which the licence had effect before the loss, theft or damage.
- (5) A copy of a licence or summary issued under this section shall be treated as if it were the licence or summary. 30
- (6) In subsection (2), “prescribed” means –
 - (a) in relation to applications to authorities in England and Wales, prescribed by regulations made by the Secretary of State, and
 - (b) in relation to applications to authorities in Scotland, prescribed by regulations made by the Scottish Ministers. 35

Duration

185 Initial duration

- (1) The Secretary of State may by regulations prescribe a period at the end of which premises licences expire (unless they cease to have effect earlier in accordance with a provision of this Part). 40

- (2) Regulations under this section may make provision about renewal (and may, in particular, apply or make provision similar to any provision of this Part about an application for a premises licence).
- (3) Regulations under this section may make provision which applies to licences issued before the regulations are made. 5
- (4) If the Secretary of State does not prescribe a period under this section in respect of a premises licence, it shall continue to have effect unless and until it ceases to have effect in accordance with a provision of this Part.

186 Surrender

- (1) A premises licence shall cease to have effect if the licensee – 10
- (a) notifies the licensing authority of his intention to surrender the licence, and
 - (b) gives the licensing authority either –
 - (i) the licence, or
 - (ii) a written statement explaining why it is not reasonably practicable to produce the licence. 15
- (2) As soon as is reasonably practicable after receipt of notification under subsection (1)(a) the licensing authority shall notify –
- (a) the Commission,
 - (b) either – 20
 - (i) in England and Wales, the chief officer of police for any area in which the premises are wholly or partly situated, or
 - (ii) in Scotland, the chief constable of the police force maintained for a police area in which the premises are wholly or partly situated, and 25
 - (c) Her Majesty’s Commissioners of Customs and Excise.

187 Revocation for failure to pay fee

- (1) Where the holder of a premises licence fails to pay the annual fee in accordance with regulations under section 178 the licensing authority shall revoke the licence. 30
- (2) But the licensing authority may disapply subsection (1) if they think that a failure to pay is attributable to administrative error.

188 Lapse

- (1) In the case of a premises licence issued to an individual, the licence shall lapse if – 35
- (a) the licensee dies,
 - (b) the licensee becomes, in the opinion of the licensing authority as notified to the licensee, incapable of carrying on the licensed activities by reason of mental or physical incapacity,
 - (c) the licensee becomes bankrupt (within the meaning of section 381 of the Insolvency Act 1986 (c. 45)), or 40
 - (d) sequestration of the licensee’s estate is awarded under section 12(1) of the Bankruptcy (Scotland) Act 1985 (c. 66).

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- (2) In any other case a premises licence shall lapse if the licensee –
- (a) ceases to exist, or
 - (b) goes into liquidation (within the meaning of section 247(2) of the Insolvency Act 1986 (c. 45)).
- (3) If a licensing authority become aware that a premises licence issued by them has lapsed, they shall as soon as is reasonably practicable notify –
- (a) the Commission, 5
 - (b) either –
 - (i) in England and Wales, the chief officer of police for any area in which the premises are wholly or partly situated, or 10
 - (ii) in Scotland, the chief constable of the police force maintained for a police area in which the premises are wholly or partly situated, and
 - (c) Her Majesty’s Commissioners of Customs and Excise.
- 189 Reinstatement** 15
- (1) This section applies where a premises licence lapses under section 188.
- (2) During the period of six months beginning with the date of the lapse of the premises licence a person may apply to the licensing authority for the licence to be reinstated with the applicant as the licensee.
- (3) The provisions of this Part shall apply in relation to an application for reinstatement as they apply in relation to an application for a premises licence – 20
- (a) subject to the provisions of this section and section 190, and
 - (b) with any other necessary modifications.
- (4) An application for reinstatement must (in addition to anything required by section 157) request that the reinstatement take effect upon the application being granted. 25
- (5) A licensing authority shall grant an application for reinstatement unless they think it would be wrong to do so having regard to representations made under section 159 (as applied by subsection (3) above). 30
- (6) On the grant of an application for the reinstatement of a premises licence the licensing authority –
- (a) shall alter the licence so that the applicant for reinstatement becomes the licensee,
 - (b) shall specify in the licence that the reinstatement takes effect at the time when the application is granted, and 35
 - (c) shall make such other alteration of the licence as appears to them to be required (which may, in particular, include an alteration to reflect a decision of the authority under section 167 as applied by subsection (3) above to make new or varied provision for the attachment or exclusion of conditions). 40
- 190 Reinstatement: supplemental**
- (1) An application under section 189 for the reinstatement of a premises licence must (in addition to anything required by section 157) be accompanied by –
- (a) the licence, or 45

- (b) both—
 - (i) a statement explaining why it is not reasonably practicable to produce the licence, and
 - (ii) an application under section 184 for the issue of a copy of the licence. 5
- (2) In the case of an application under section 184 made in accordance with subsection (1)(b)(ii) above—
 - (a) the application shall be made by the applicant for reinstatement, and
 - (b) a reference to the licence being lost, stolen or damaged shall be treated as a reference to the licence being unavailable to the applicant for reinstatement. 10
- (3) Regulations under section 158, as they have effect in relation to applications for reinstatement by virtue of section 189(3), may require notice to be given to specified responsible authorities (and not to all responsible authorities).
- (4) Section 159 shall have effect in relation to an application for reinstatement with the omission of the reference to interested parties. 15
- (5) Where an application is made under section 189 for the reinstatement of a premises licence, the licence shall have effect as if the applicant for reinstatement were the licensee during the period—
 - (a) beginning with the receipt of the application for reinstatement by the licensing authority, and 20
 - (b) ending with the determination of the application by the licensing authority.

Review

- 191 Application for review** 25
- (1) A responsible authority or interested party may apply to the licensing authority for a review by the authority of a premises licence.
 - (2) An application must—
 - (a) be made in the prescribed form and manner,
 - (b) specify the grounds on which the review is sought, and 30
 - (c) contain or be accompanied by the prescribed information or documents.
 - (3) The Secretary of State may make regulations requiring an applicant—
 - (a) to give notice of his application to the licensee;
 - (b) to give notice of his application to the responsible authorities in relation to the premises. 35
 - (4) The Secretary of State may make regulations requiring the licensing authority to whom an application is made under this section to publish notice of the application.
 - (5) Regulations under subsection (3) or (4) shall include provision— 40
 - (a) about the manner and form in which notice is to be published or given,
 - (b) about the period of time within which notice is to be published or given, and
 - (c) for the consequences of failure to comply with the regulations.

- (6) Regulations by virtue of subsection (5)(a) shall, in particular, require a notice to specify a period of time during which representations about the application may be made to the licensing authority by –
- (a) the licensee,
 - (b) a responsible authority, or
 - (c) an interested party.
- (7) In relation to applications to authorities in Scotland, subsections (3) and (4) shall have effect as if the references to the Secretary of State were references to the Scottish Ministers.

192 Rejection of application 10

- (1) A licensing authority may reject an application under section 191 for the review of a premises licence if they think that the grounds on which the review is sought –
- (a) do not raise an issue relevant to the principles to be applied in accordance with section 151, 15
 - (b) are frivolous,
 - (c) are vexatious,
 - (d) will certainly not cause the authority to wish to take action of a kind specified in section 196(1),
 - (e) are substantially the same as the grounds specified in an earlier application under section 191 in respect of the premises licence, or 20
 - (f) are substantially the same as representations made under section 159 in relation to the application for the premises licence.
- (2) In determining whether to exercise the power to reject an application under section 191 in accordance with subsection (1)(e) or (f), a licensing authority shall consider the length of time that has elapsed since the making of the earlier application or since the making of the representations under section 159. 25
- (3) If a licensing authority consider that paragraphs (a) to (f) apply to some but not all of the grounds on which a review is sought, they may reject the application in so far as it relies on grounds to which those paragraphs apply. 30
- (4) In this section a reference to section 159 includes a reference to that section as applied by section 181(3).

193 Grant of application

- (1) This section applies where an application for review has been made to a licensing authority under section 191. 35
- (2) If, or in so far as, the licensing authority do not reject the application under section 192 they shall grant it.

194 Initiation of review by licensing authority

- (1) A licensing authority may review in relation to premises licences of a particular class – 40
- (a) the use made of premises, and

- (b) in particular, arrangements made by licensees to ensure compliance with conditions attached under section 165, 166 or 167 or by a provision of this Part.
- (2) A licensing authority may review any matter connected with the use of premises in reliance on a premises licence if the authority – 5
- (a) have reason to suspect that the premises may have been used in purported reliance on a licence but not in accordance with a condition of the licence, or
- (b) for any reason (which may relate to the receipt of a complaint about the use of the premises) think that a review would be appropriate. 10
- (3) Before reviewing a premises licence under subsection (2) the licensing authority shall –
- (a) give notice of their intention to hold the review to the licensee, and
- (b) publish notice of their intention to hold the review.
- (4) The Secretary of State may make regulations about – 15
- (a) the manner and form in which notice under subsection (3) is to be given or published, and
- (b) the period of time within which notice is to be given or published.
- (5) Regulations by virtue of subsection (4)(a) shall, in particular, require a notice to specify a period of time during which representations about the review may be made to the licensing authority by – 20
- (a) the licensee,
- (b) a responsible authority, or
- (c) an interested party.
- (6) In relation to notice given by a licensing authority in Scotland, subsection (4) shall have effect as if the reference to the Secretary of State were a reference to the Scottish Ministers. 25

195 Review

- (1) This section applies where a licensing authority –
- (a) have granted an application for a review of a premises licence under section 193, or 30
- (b) have given notice under section 194 of their intention to hold a review of a premises licence.
- (2) As soon as is reasonably practicable after the expiry of any period for representations prescribed under section 191(6) or 194(5), the licensing authority shall review the premises licence. 35
- (3) The purpose of the review shall be to consider whether to take action of a kind specified in section 196(1) in relation to the licence.
- (4) In conducting a review of a premises licence a licensing authority shall hold a hearing unless – 40
- (a) the applicant for the review (if there is one), and each person who has made representations about the review under section 191(6) or 194(5), have consented to the conduct of the review without a hearing, or
- (b) the licensing authority think that each representation made about the review in accordance with section 191(6) or 194(5) – 45

- (i) is frivolous,
 - (ii) is vexatious, or
 - (iii) will certainly not influence the review.
- (5) In considering whether to take action of a kind specified in section 196(1) the licensing authority shall have regard (in addition to the matters specified in section 151) to – 5
 - (a) any representations made in accordance with section 191(6) or 194(5),
 - (b) any representations made at the hearing of the review (if there is one), and
 - (c) in the case of a review held in response to an application under section 191, the grounds specified in the application for the review (apart from any in relation to which the application was rejected under section 192(3)). 10
- 196 Action following review**
- (1) As a result of a review of a premises licence under section 195 a licensing authority may – 15
 - (a) revoke the licence;
 - (b) suspend the licence for a specified period not exceeding three months;
 - (c) exclude a condition attached to the licence under section 166;
 - (d) add, remove or amend a condition under section 167. 20
- (2) If the licensing authority decide to take action of a kind specified in subsection (1) they shall specify the time at which the action shall take effect.
- (3) A licensing authority may, in particular, take action under subsection (1) on the grounds that the licensee has not used the licence.
- 197 Determination** 25
- (1) As soon as possible after completion of a review of a premises licence under section 195 a licensing authority shall give notice of their decision on the review to –
 - (a) the licensee,
 - (b) the applicant for the review (if any), 30
 - (c) the Commission,
 - (d) any person who made representations in accordance with section 191 or 194,
 - (e) either –
 - (i) in England and Wales, the chief officer of police for any area in which the premises are wholly or partly situated, or 35
 - (ii) in Scotland, the chief constable of the police force maintained for a police area in which the premises are wholly or partly situated, and
 - (f) Her Majesty’s Commissioners of Customs and Excise. 40
- (2) A notice under subsection (1) –
 - (a) must be in the prescribed form, and
 - (b) must give the authority’s reasons for their decision.

*Provisional statement***198 Application**

- (1) A person may make an application for a provisional statement in respect of premises –
- (a) that he expects to be constructed, 5
 - (b) that he expects to be altered, or
 - (c) that he expects to acquire a right to occupy.
- (2) The provisions of this Part shall apply in relation to an application for a provisional statement as they apply in relation to an application for a premises licence – 10
- (a) subject to the provisions of this section and section 199, and
 - (b) with any other necessary modifications.
- (3) An application for a provisional statement shall include such plans and other information in relation to the construction, alteration or acquisition as may be prescribed. 15
- (4) Sections 150(1)(b) and 157(3) and (5) shall not apply in relation to an application for a provisional statement.

199 Effect

- (1) This section applies where –
- (a) a licensing authority issue a provisional statement in respect of premises, and 20
 - (b) an application is made under section 157 for a premises licence in respect of the premises.
- (2) The licensing authority shall disregard any representations made in relation to the application for the premises licence unless they think that the representations – 25
- (a) address matters that could not have been addressed in representations in relation to the application for the provisional statement, or
 - (b) reflect a change in the applicant’s circumstances.
- (3) The licensing authority may refuse the application, or grant it on terms or conditions not included in the provisional statement, only by reference to matters which – 30
- (a) the authority have considered in reliance on subsection (2)(a), or
 - (b) in the authority’s opinion reflect a change in the applicant’s circumstances. 35
- (4) But subsections (2) and (3) do not apply in the case of a provisional statement issued in response to an application under section 198(1)(a) or (b) if the licensing authority think that the premises have been constructed or altered otherwise than in accordance with the plans and information included with the application for the provisional statement in accordance with section 198(3). 40

Appeals

200 Rights of appeal

- (1) Where a licensing authority reject an application under this Part the applicant may appeal.
- (2) Where a licensing authority grant an application under this Part either of the following may appeal – 5
 - (a) a person who made representations in relation to the application, and
 - (b) the applicant.
- (3) Where a licensing authority take action under section 196 as a result of a review of a premises licence, or determine to take no action as a result of a review, any of the following may appeal – 10
 - (a) the licensee,
 - (b) a person who made representations in relation to the review,
 - (c) the person (if any) who applied for the review, and
 - (d) the Commission. 15
- (4) Where a licensing authority take action or make a determination under section 182(4) or (5) either of the following may appeal –
 - (a) the licensee, and
 - (b) the applicant for transfer.

201 Process

- (1) An appeal under section 200 in relation to premises must be instituted – 20
 - (a) in the magistrates' court for a petty sessions area in which the premises are wholly or partly situated,
 - (b) by notice of appeal given to the justices' chief executive, and
 - (c) within the period of 21 days beginning with the day on which the appellant receives notice of the decision against which the appeal is brought. 25
- (2) Where an appeal is brought under section 200 the licence holder (or the applicant in the case of an appeal against the grant of an application for a premises licence) shall be a respondent in addition to the licensing authority (unless he is the appellant). 30
- (3) On an appeal under section 200 the magistrates' court may –
 - (a) dismiss the appeal;
 - (b) substitute for the decision appealed against any decision that the licensing authority could have made; 35
 - (c) remit the case to the licensing authority to decide in accordance with a direction of the court;
 - (d) make an order about costs.
- (4) Section 200 applies to a decision of a licensing authority following remittal under subsection (3)(c) above. 40
- (5) In relation to premises in Scotland –
 - (a) subsection (1)(a) shall have effect as if it referred to a sheriff within whose sheriffdom the premises are wholly or partly situated,

- (b) subsection (1)(b) shall not have effect,
- (c) the reference in subsection (3) to the magistrates' court shall have effect as a reference to the sheriff, and
- (d) the reference in subsection (3) to costs shall have effect as a reference to expenses.

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202 Stay pending appeal

- (1) A determination or other action under this Part shall have no effect while an appeal under section 200 –
 - (a) could be brought, or
 - (b) has been brought and has not yet been either finally determined or abandoned.
- (2) But a licensing authority making a determination or taking other action under this Part may direct that subsection (1) shall not apply (in which case the magistrates' court or sheriff determining an appeal may make any order that it or he thinks appropriate).

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203 Further appeal

- A party to an appeal under section 200 may appeal on a point of law –
- (a) in relation to premises in England and Wales, to the High Court, or
 - (b) in relation to premises in Scotland, to the Court of Session.

General

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204 Planning permission

- (1) In making a decision in respect of an application under this Part a licensing authority shall not have regard to whether or not a proposal by the applicant is likely to be permitted in accordance with the law relating to planning or building.
- (2) A decision by a licensing authority under this Part shall not constrain any later decision by the authority under the law relating to planning or building.

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205 Vehicles and vessels

- (1) A premises licence –
 - (a) may not be issued in relation to a vehicle (or part of a vehicle),
 - (b) may be issued in relation to all or part of a passenger vessel,
 - (c) may be issued in relation to all or part of a vessel (within the meaning of section 346(1)) situated at a fixed place in or on water, and
 - (d) may not be issued in relation to all or part of a vessel to which neither of paragraphs (b) and (c) applies.
- (2) In relation to a vessel, a reference in this Part to a place in which premises are wholly or partly situated shall be construed –
 - (a) in the case of a vessel (within the meaning of section 346(1)) situated at a fixed place in or on water, as a reference to that place,
 - (b) in the case of a vessel which is permanently moored at a place, as a reference to that place,

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- (c) in the case of a vessel which is habitually moored at one place more frequently or for longer periods than at any other place, as a reference to that place, and
 - (d) in any other case, as a reference to any place at which a vessel is moored or is likely to be moored, or to the place in the United Kingdom nearest to any place at which a vessel is or is likely to be, while activities are carried on in the vessel in reliance on a premises licence. 5
- (3) In relation to a vessel, the following are responsible authorities for the purposes of this Part (in addition to the persons listed in section 155) –
 - (a) a navigation authority, within the meaning of section 221(1) of the Water Resources Act 1991 (c. 57), which has functions in relation to any place where the vessel is or is likely to be while activities are carried on in the vessel in reliance on a premises licence, 10
 - (b) the Environment Agency,
 - (c) the British Waterways Board, and 15
 - (d) the Secretary of State.

206 Fees

- (1) Regulations under this Part prescribing a fee –
 - (a) may provide for the amount of the fee to be determined by a licensing authority, and 20
 - (b) may, if they make provision by virtue of paragraph (a), specify constraints on a licensing authority’s power to determine the amount of the fee.
- (2) Where provision is made under subsection (1) for the amount of a fee to be determined by a licensing authority, the authority –
 - (a) shall determine the amount of the fee,
 - (b) may determine different amounts for different classes of case specified in the regulations (but may not otherwise determine different amounts for different cases),
 - (c) shall publish the amount of the fee as determined from time to time, and 30
 - (d) shall aim to ensure that in each financial year the income from fees of that kind as nearly as possible equates to the costs of providing the service to which the fee relates (including a reasonable share of expenditure which is referable only partly or only indirectly to the provision of that service). 35
- (3) Regulations by virtue of this section may (without prejudice to the generality of section 348) –
 - (a) make provision which applies generally or only to specified authorities or classes of authority, 40
 - (b) make different provision for different authorities or classes of authority, and
 - (c) make transitional provision in respect of a case where an authority enters or leaves a class.
- (4) A class of authority for the purposes of subsection (3) may, in particular, be defined by reference to categories assigned under section 99 of the Local Government Act 2003 (c. 26). 45

- (5) This section does not apply to Scotland.

207 Interpretation

In this Part –

- (a) “authorised activity”, in relation to a premises licence, means an activity specified under section 149(1)(d), 5
- (b) “chief officer of police” has the meaning given by section 101(1) of the Police Act 1996 (c. 16),
- (c) a reference to a chief officer’s area is a reference to the area in respect of which he has responsibility under that Act,
- (d) “holder”, in relation to a premises licence, means the person to whom the licence is issued, 10
- (e) “licensee”, in relation to a premises licence, also means the person to whom the licence is issued,
- (f) “the licensing authority”, in relation to a premises licence, means the authority who issued the licence, and 15
- (g) “prescribed” means prescribed by regulations made (except in sections 157, 162, 163, 178 and 184) by the Secretary of State.

PART 9

TEMPORARY USE OF PREMISES

Temporary use notice 20

208 Exception to offence of using premises for gambling

- (1) A person who uses premises to carry on an activity listed in section 36(1), or who causes or permits premises to be used to carry on an activity to which that section applies, does not commit an offence under that section if –
- (a) a temporary use notice under this Part has effect in respect of the premises, and 25
- (b) the activity is carried on in accordance with the terms of the notice.

209 Nature of notice

- (1) A temporary use notice is a notice given in accordance with the provisions of this Part – 30
- (a) by the holder of an operating licence, and
- (b) stating his intention to carry on one or more specified prescribed activities.
- (2) The Secretary of State may by regulations – 35
- (a) prescribe activities which may be specified in a notice under subsection (1)(b);
- (b) prescribe combinations of activity that may not be specified in a notice under subsection (1)(b);
- (c) prescribe activities which may be specified under subsection (1)(b) only if no other prescribed activity is specified in the notice. 40

- (3) A temporary use notice given by a person may specify an activity under subsection (1)(b) only if the person’s operating licence authorises him to carry on the activity.

210 Form of notice

- (1) A temporary use notice must – 5
- (a) be in the prescribed form,
 - (b) specify the activity to be carried on in reliance on the notice,
 - (c) specify the premises on which the activity is to be carried on,
 - (d) specify the period of time during which the notice is to have effect,
 - (e) specify the times of day during that period at which the activity is to be carried on, 10
 - (f) specify any periods during the previous 12 months during which a temporary use notice has had effect in respect of the premises or any part of the premises,
 - (g) specify the date on which the notice is given, and 15
 - (h) contain any other prescribed information.
- (2) In this section “prescribed” means prescribed by regulations made by the Secretary of State.
- (3) In subsection (1)(f) “the previous 12 months” means the period of 12 months ending with the last day of the period specified under subsection (1)(d). 20

211 Effect of notice

A temporary use notice shall, subject to the provisions of this Part and provided that the requirements of this Part are complied with, have effect during the period specified in the notice in accordance with section 210(1)(d).

212 Maximum permitted period 25

- (1) A set of premises may not be the subject of temporary use notification for more than 21 days in a period of 12 months.
- (2) A set of premises may be the subject of more than one temporary use notice in a period of 12 months (provided that the aggregate of the periods for which the notices have effect does not exceed 21 days). 30
- (3) If a temporary use notice is given to a licensing authority and subsection (1) would be contravened if the notice had effect for any part of the period specified in accordance with section 210(1)(d), the licensing authority shall give a counter-notice providing for the temporary use notice not to have effect.
- (4) Subsections (5) and (6) apply where a temporary use notice is given to a licensing authority and – 35
- (a) subsection (1) would be contravened if the notice had effect for the whole of the period specified in accordance with section 210(1)(d) (“the specified period”), but
 - (b) the notice could have effect for some part of the specified period without resulting in contravention of subsection (1). 40
- (5) The licensing authority shall give a counter-notice providing that the temporary use notice –

- (a) shall not have effect during such part of the specified period as the licensing authority may specify in the counter-notice (“the excluded period”), and
- (b) shall be treated for the purposes of this Part as if it related only to the non-excluded period. 5
- (6) Where there is a choice as to which part of the specified period to exclude under subsection (5), the licensing authority shall consult the person who gave the temporary use notice before giving a counter-notice by virtue of that subsection.
- (7) A counter-notice under this section shall have effect; and subsections (4) and (6) of section 218 shall apply in relation to a counter-notice given under this section as they apply in relation to a counter-notice given under that section. 10
- (8) For the purposes of this section a set of premises is the subject of temporary use notification (or of a notice) if any part of the premises is the subject of temporary use notification (or of a notice). 15

Procedure

213 Giving notice

- (1) A temporary use notice must be given to the licensing authority for the area in which the premises specified under section 210(1)(c) are situated.
- (2) A temporary use notice must be given before the period of three months ending with the day before the period specified under section 210(1)(d). 20
- (3) A temporary use notice given under subsection (1) must be accompanied by –
- (a) a copy of the notice, and
- (b) such fee as may be prescribed by regulations made –
- (i) in relation to premises in England and Wales, by the Secretary of State, and 25
- (ii) in relation to premises in Scotland, by the Scottish Ministers.
- (4) A person who gives a temporary use notice must give a copy of it to –
- (a) the Commission,
- (b) either – 30
- (i) in England and Wales, the chief officer of police for any area in which the premises specified in the notice are wholly or partly situated, or
- (ii) in Scotland, the chief constable of the police force maintained for a police area in which the premises are wholly or partly situated, and 35
- (c) Her Majesty’s Commissioners of Customs and Excise.
- (5) A person who gives a temporary use notice must ensure that it, and any copy required by this section to be given, are received within the period of 7 days beginning with the date specified under section 210(1)(g). 40
- (6) In the case of premises situated partly in the area of one licensing authority and partly in the area of another, the person giving the notice –
- (a) may give it to either authority, and
- (b) shall give a copy of the notice to the other authority.

- (7) In this Part—
- (a) “chief officer of police” has the meaning given by section 101(1) of the Police Act 1996 (c. 16), and
 - (b) a reference to a chief officer’s area is a reference to the area in respect of which he has responsibility under that Act. 5
- (8) Section 206 shall have effect in relation to fees under this section as it has effect in relation to fees under Part 8.

214 Acknowledgment of notice

Where a licensing authority receive a temporary use notice in accordance with section 213(1) they shall as soon as is reasonably practicable send a written acknowledgment of the notice to the person who gave it. 10

215 Objections

- (1) This section applies where a person receives a temporary use notice, or a copy of a temporary use notice, in accordance with section 213.
- (2) If the person thinks that having regard to the licensing objectives the temporary premises notice should not have effect, or should have effect only with modification, he may give a notice of objection to the person who gave the temporary use notice. 15
- (3) A person who gives a notice of objection under subsection (2) must give a copy of the notice to the licensing authority to which the temporary use notice was given (unless it is that licensing authority which give the notice of objection). 20
- (4) A notice of objection and any copy required by subsection (3) must be given within the period of 21 days beginning with the date on which the temporary use notice is given as specified under section 210(1)(g).
- (5) A notice of objection must state— 25
- (a) that the person giving the notice objects to the temporary use notice, and
 - (b) the person’s reasons.
- (6) If the person who gives a notice of objection later withdraws it by notice in writing to the persons mentioned in subsections (2) and (3), the notice of objection shall be disregarded. 30

216 Hearing of objections

- (1) This section applies where—
- (a) a temporary use notice is given to a licensing authority in accordance with section 213, and 35
 - (b) a notice of objection is given in accordance with section 215.
- (2) The licensing authority shall hold a hearing at which any of the following may make representations about the notice of objection—
- (a) the person who gave the temporary use notice,
 - (b) the person who gave the notice of objection, and 40
 - (c) any other person who was entitled to receive a copy of the temporary use notice in accordance with section 213.

- (3) But the licensing authority need not arrange a hearing if the authority and each person who would be entitled to make representations agree in writing that a hearing is unnecessary.

217 Modification by agreement

- (1) This section applies where – 5
- (a) a person has given a temporary use notice to a licensing authority in accordance with section 213,
 - (b) a notice of objection has been given by a person (“the objector”) in accordance with section 215, and
 - (c) a hearing in accordance with section 216(2) has neither – 10
 - (i) taken place, nor
 - (ii) been dispensed with in accordance with section 216(3).
- (2) The objector may by notice in writing to the person who gave the temporary use notice propose a modification of that notice.
- (3) If the person who gave the temporary use notice accepts the modification – 15
- (a) he shall give a new notice, incorporating the modification, in accordance with section 213, and
 - (b) the objection shall be treated as withdrawn (but without prejudice to the right of any person other than the objector to give a notice of objection in relation to the new notice). 20
- (4) The following provisions of section 213 shall not apply to a temporary use notice given under subsection (3)(a) above –
- (a) subsection (2), and
 - (b) subsection (3)(b).

218 Counter-notice 25

- (1) This section applies where –
- (a) a person has given a temporary use notice to a licensing authority in accordance with section 213,
 - (b) a notice of objection has been given in accordance with section 215, and
 - (c) a hearing – 30
 - (i) has taken place in accordance with section 216(2), or
 - (ii) has been dispensed with in accordance with section 216(3).
- (2) If the licensing authority think that the temporary use notice should not have effect or should have effect only with modification, the authority may give a counter-notice under this subsection to the person who gave the temporary use notice. 35
- (3) A counter-notice may provide for the temporary use notice –
- (a) not to have effect;
 - (b) to have effect only in respect of a specified activity;
 - (c) to have effect only in respect of activity carried on during a specified period of time or at specified times of day; 40
 - (d) to have effect subject to compliance with a specified condition;
- and provision made under this subsection shall have effect.
- (4) A counter-notice must –

- (a) be in the prescribed form, and
 - (b) contain the prescribed information.
- (5) A counter-notice must state the licensing authority’s reasons for giving it.
- (6) Where a licensing authority give a counter-notice they shall give a copy to any person who was entitled to receive a copy of the temporary use notice. 5
- (7) Section 151(1) shall apply to the exercise of a licensing authority’s functions under this section as it applies to the exercise of a licensing authority’s functions under Part 8.
- (8) In this section “prescribed” means prescribed by regulations made by the Secretary of State. 10

219 Dismissal of objection

- (1) This section applies where –
- (a) a person has given a temporary use notice to a licensing authority in accordance with section 213,
 - (b) a notice of objection has been given in accordance with section 215, and 15
 - (c) the licensing authority has determined not to give a counter-notice.
- (2) The licensing authority shall give notice of their determination to –
- (a) the person who gave the temporary use notice, and
 - (b) each person who received a copy of the temporary use notice in accordance with section 213. 20

220 Appeal

- (1) This section applies where a licensing authority –
- (a) give a counter-notice under section 218, or
 - (b) give a notice under section 219.
- (2) Any of the following may appeal – 25
- (a) the person who gave the temporary use notice, and
 - (b) a person who was entitled to receive a copy of the temporary use notice under section 213.
- (3) An appeal under this section must be instituted –
- (a) in the magistrates’ court for a petty sessions area in which the premises to which the temporary use notice relates are wholly or partly situated, 30
 - (b) by notice of appeal given to the justices’ chief executive, and
 - (c) within the period of 21 days beginning with the day on which the appellant receives notice of the action against which the appeal is brought. 35
- (4) Where an appeal is brought against the giving of a notice under section 219 the person who gave the temporary use notice shall be a respondent in addition to the licensing authority.
- (5) On an appeal under this section the magistrates’ court may –
- (a) dismiss the appeal; 40
 - (b) direct the licensing authority to take action of a specified kind;

- (c) remit the case to the licensing authority to decide in accordance with a direction of the court;
 - (d) make an order about costs.
- (6) Subsection (2) applies to a decision of a licensing authority following remittal under subsection (5)(c) above. 5
- (7) A party to an appeal under this section may bring a further appeal to the High Court on a point of law.
- (8) In relation to premises in Scotland –
 - (a) subsection (3)(a) shall have effect as if it referred to a sheriff within whose sheriffdom the premises are wholly or partly situated, 10
 - (b) subsection (3)(b) shall not have effect,
 - (c) the reference in subsection (5) to the magistrates' court shall have effect as a reference to the sheriff,
 - (d) the reference in subsection (5) to costs shall have effect as a reference to expenses, and 15
 - (e) the reference in subsection (7) to the High Court shall have effect as a reference to the Court of Session.

221 Endorsement of notice

- (1) This section applies where a temporary use notice has been given to a licensing authority under section 213. 20
- (2) If no notice of objection is pending in relation to the temporary use notice when the 21 day period specified in section 215(4) expires, the licensing authority shall –
 - (a) endorse the copy submitted under section 213(3)(a) in such manner as may be prescribed by the Secretary of State by regulations, and 25
 - (b) return the endorsed copy, as soon as is reasonably practicable, to the person giving the notice.
- (3) If a notice of objection is pending in relation to a temporary use notice when the 21 day period specified in section 215(4) expires, then as soon as is reasonably practicable after the completion of proceedings on the temporary use notice the licensing authority shall, unless they give a counter-notice under section 218(3)(a) – 30
 - (a) endorse the copy submitted under section 213(3)(a) in such manner as may be prescribed by the Secretary of State by regulations, and
 - (b) return the endorsed copy, as soon as is reasonably practicable, to the person giving the temporary use notice. 35
- (4) For the purposes of this section a notice of objection is pending if it has been given in accordance with section 215 and –
 - (a) it has not been withdrawn, and
 - (b) it is not treated as withdrawn in accordance with section 217(3)(b). 40
- (5) For the purposes of this section proceedings on a temporary use notice are completed –
 - (a) if any notice of objection given in relation to the temporary use notice has been withdrawn, or
 - (b) if the licensing authority has given a counter-notice under section 218 or a notice under section 219. 45

- (6) A licensing authority shall make arrangements whereby if an endorsed copy of a temporary use notice is lost, stolen or damaged the person who gave the notice can obtain a new endorsed copy; and –
- (a) the arrangements may include the charging of such fee as the Secretary of State may prescribe by regulations, and 5
 - (b) section 206 shall have effect in relation to fees under paragraph (a) above as it has effect in relation to fees under Part 8.

222 Consideration by licensing authority: timing

- (1) Where a licensing authority are given a temporary use notice in accordance with section 213 the authority shall complete proceedings on the notice before the end of the period of two months beginning with the date on which they receive the notice. 10
- (2) In subsection (1) the reference to proceedings on a temporary use notice is a reference to –
- (a) considering whether to give a notice of objection under section 215, 15
 - (b) holding a hearing in relation to any notice of objection given under section 215 (whether or not by the licensing authority) or agreeing to dispense with a hearing in accordance with section 216(3), and
 - (c) giving a counter-notice under section 218 or a notice under section 219.

Miscellaneous 20

223 Availability of notice

- (1) A person who gives a temporary use notice in respect of premises shall –
- (a) arrange for a copy of the notice to be displayed prominently on the premises at any time when an activity is being carried on in reliance on the notice, and 25
 - (b) arrange for the notice endorsed by the licensing authority in accordance with section 221 to be produced on request to –
 - (i) a constable,
 - (ii) an officer of customs and excise,
 - (iii) an enforcement officer, or 30
 - (iv) an authorised local authority officer.
- (2) A person commits an offence if he fails without reasonable excuse to comply with subsection (1).
- (3) A person guilty of an offence under subsection (2) shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale. 35

224 Withdrawal of notice

If a person who gives a temporary use notice to a licensing authority in accordance with section 213 notifies the licensing authority that the notice is withdrawn –

- (a) the notice shall have no effect (or, if it has started to have effect, shall cease to have effect), and 40

- (b) no further proceedings shall take place in respect of the notice (except in respect of a matter arising during or in relation to a time at which the notice had effect).

225 Vehicles and vessels

- (1) A temporary use notice – 5
- (a) may not be given in respect of a vehicle (or part of a vehicle),
 - (b) may be given in respect of all or part of a passenger vessel,
 - (c) may be given in respect of all or part of a vessel (within the meaning of section 346(1)) situated at a fixed place in or on water, and
 - (d) may not be given in respect of all or part of a vessel to which neither of paragraphs (b) and (c) applies. 10
- (2) In relation to a vessel, a reference in this Part to a place in which premises are wholly or partly situated shall be construed –
- (a) in the case of a vessel (within the meaning of section 346(1)) situated at a fixed place in or on water, as a reference to that place, 15
 - (b) in the case of a vessel which is permanently moored at a place, as a reference to that place,
 - (c) in the case of a vessel which is habitually moored at one place more frequently or for longer periods than at any other place, as a reference to that place, and 20
 - (d) in any other case, as a reference to any place at which a vessel is moored or is likely to be moored, or to the place in the United Kingdom nearest to any place at which a vessel is or is likely to be, while activities are carried on in the vessel in reliance on a temporary use notice.
- (3) In relation to a vessel, the following are responsible authorities for the purposes of this Part (in addition to the persons listed in section 155) – 25
- (a) a navigation authority, within the meaning of section 221(1) of the Water Resources Act 1991 (c. 57), which has functions in relation to any place at which a vessel is moored or is likely to be moored, or to the place in the United Kingdom nearest to any place at which a vessel is or is likely to be, while activities are carried on in the vessel in reliance on a temporary use notice, 30
 - (b) the Environment Agency,
 - (c) the British Waterways Board, and
 - (d) the Secretary of State. 35

226 Delegation of licensing authority functions: England and Wales

- (1) The functions under this Part of a licensing authority in England and Wales are by virtue of this subsection delegated to the licensing committee of the authority established under section 6 of the Licensing Act 2003 (c. 17).
- (2) The following provisions of the Licensing Act 2003 shall apply in relation to a function delegated to a licensing committee under this section as they apply in relation to a function delegated under that Act – 40
- (a) section 7(9) (referral back to licensing authority), and
 - (b) section 10 (sub-delegation).

- (3) In the application of section 10(4) of that Act (matters not to be delegated to officer) by virtue of subsection (2) above, for the list of functions there shall be substituted a reference to any function under section 218 of this Act.
- (4) The provisions of section 9 of that Act and regulations under it apply to proceedings of licensing committees and their sub-committees in relation to the exercise of functions under this Part; and for that purpose regulations may, in particular, make provision which applies –
 - (a) only in relation to functions under that Act,
 - (b) only in relation to functions under this Part, or
 - (c) differently in relation to functions under that Act and functions under this Part.

227 Delegation of functions under Part 9: Scotland

- (1) Subject to subsection (2), a licensing authority in Scotland may arrange for the discharge of any of their functions under this Part by a committee of the authority, a member or members of the authority, the clerk of the authority or any person appointed to assist the clerk. 15
- (2) A licensing authority are not to make any arrangements under subsection (1) for the discharge by the clerk of the authority or any person appointed to assist the clerk of any of the authority's functions under section 215.
- (3) The procedures applicable to the proceedings of licensing boards in the exercise of their functions under the Licensing (Scotland) Act 1976 apply to the proceedings of those boards in the exercise of their functions under this Part; and for that purpose regulations made by the Scottish Ministers may, in particular, make provision which applies –
 - (a) only in relation to functions under that Act, 25
 - (b) only in relation to functions under this Part,
 - (c) differently in relation to functions under that Act and functions under this Part.

228 Register

- (1) A licensing authority shall –
 - (a) maintain a register of temporary use notices given to them together with such other information as may be prescribed,
 - (b) make the register and information available for inspection by members of the public at all reasonable times, and
 - (c) make arrangements for the provision of a copy of an entry in the register, or of information, to a member of the public on request. 35
- (2) A licensing authority may refuse to provide a copy of an entry or of information unless the person seeking it pays a reasonable fee specified by the authority.
- (3) The Secretary of State may make regulations about –
 - (a) the form of the register;
 - (b) the manner in which it is maintained. 40
- (4) The Secretary of State may make regulations –
 - (a) requiring licensing authorities to give to the Commission specified information about temporary use notices given to them, 45

- (b) requiring the Commission to maintain a register of the information provided to it under paragraph (a),
- (c) requiring the Commission to grant access to the register to members of the public (without charge),
- (d) requiring the Commission to make copies of entries available on request, and on payment of a reasonable fee, to members of the public, and 5
- (e) excusing licensing authorities, wholly or partly, from compliance with subsection (1).

PART 10 10

GAMING MACHINES

Definitions

229 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). 15
- (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 is not a gaming machine by reason only of the fact that it may be used to participate in remote gambling, 20
 - (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 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 the results of which are neither — 25
 - (i) determined by the machine, nor
 - (ii) announced by being displayed by the machine,
 - (e) a machine is not a gaming machine if — 30
 - (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 73 or 75 by virtue of section 83(2)(b), and
 - (f) a machine is not a gaming machine by reason only of the fact that it is designed or adapted to be — 35
 - (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. 40
- (3) Despite subsection (2)(f), a machine is a gaming machine if—
 - (a) it is designed or adapted to enable individuals to play a real game of chance,

- (b) 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, and
 - (c) it is not designed or adapted for use in connection with a game the arrangements for which are controlled or operated by an individual. 5
- (4) 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 part of a gaming machine –
 - (i) includes a reference to any computer software designed or adapted for use in a gaming machine, but 10
 - (ii) does not include a reference to a component of a gaming machine which does not influence the outcome of a game,
 - (c) 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, 15
 - (d) a reference to adapting a gaming machine includes a reference to adapting a machine so that it becomes a gaming machine, and
 - (e) “domestic computer” and “dual-use” computer shall have the meanings assigned by the Secretary of State by regulations. 20
- (5) Regulations under subsection (4)(e) 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, 25
 - (d) the software installed on a computer, or
 - (e) any other matter.
- (6) 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. 30

230 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). 35
- (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. 40
- (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 – 45
 - (a) amounts paid in respect of the use of a machine;

- (b) the value of prizes;
 - (c) the nature of prizes;
 - (d) 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. 5
- (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. 10
- 231 Adult gaming centre**
- In this Act “adult gaming centre” means premises in respect of which an adult gaming centre premises licence has effect.
- 232 Family entertainment centre**
- In this Act – 15
- “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. 20
- 233 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. 25

Regulations

- 234 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 – 30
- (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; 35
 - (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. 40

- (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.

235 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. 5
- (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. 10

Offences

236 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 241, 242, 243, 266, 268, 277, 278 or 282 applies.
- (2) A person commits an offence if he makes a gaming machine available for use in contravention of regulations under section 234. 15

237 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 238 or 244 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 235.
- (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. 20 25 30

238 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”). 35 40

- (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. 5
- (3) The Secretary of State may by order amend, or modify the effect of, subsection (2) so that subsection (1) is disapplied 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 10
 - (c) subject to such conditions as the order may specify.

239 Credit

- (1) A person commits an offence if he supplies, installs or makes available for use a gaming machine which is designed or adapted to permit money to be paid by means of a credit card. 15
- (2) In this section “credit card” means a card which is a credit-token within the meaning of section 14 of the Consumer Credit Act 1974 (c. 39).

240 Penalty

- (1) A person guilty of an offence under this Part shall be liable on summary conviction to— 20
- (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. 25

*Exceptions***241 Family entertainment centre gaming machine permit**

- (1) A person does not commit an offence under section 36 or 236 if he makes a Category D gaming machine available for use in accordance with a family entertainment centre gaming machine permit. 30
- (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. 35

242 No prize

- (1) A person does not commit an offence under section 36 or 236 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. 40

- (2) The Secretary of State may make regulations creating exceptions from the offence under section 233 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.

243 Limited prize 5

- (1) A person does not commit an offence under section 36 or 236 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. 10
- (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, 15
 - (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 20
 - (ii) who receives benefit from the payment.

244 Single-machine supply and maintenance permits

- (1) A person does not commit an offence under section 32 or 237(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. 25
- (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, 30
 - (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 35
 - (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. 40
- (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. 5

*General***245 Territorial application**

This Part applies –

- (a) to anything done in relation to a gaming machine which (or any part of which) is situated in Great Britain, and 10
- (b) to anything done in Great Britain in relation to a gaming machine (irrespective of where it is situated).

PART 11

LOTTERIES 15

*Interpretation***246 Promoting a lottery**

- (1) For the purposes of this Act a person promotes a lottery if he makes or participates in making the arrangements for a lottery.
- (2) In particular, a person promotes a lottery if he – 20
- (a) makes arrangements for the printing of lottery tickets,
 - (b) makes arrangements for the printing of promotional material,
 - (c) arranges for the distribution or publication of promotional material,
 - (d) possesses promotional material with a view to its distribution or publication, 25
 - (e) makes other arrangements to advertise a lottery,
 - (f) invites a person to participate in a lottery,
 - (g) sells or supplies a lottery ticket,
 - (h) offers to sell or supply a lottery ticket,
 - (i) possesses a lottery ticket with a view to its sale or supply, 30
 - (j) does or offers to do anything by virtue of which a person becomes a member of a class among whom prizes in a lottery are to be allocated, or
 - (k) uses premises for the purpose of allocating prizes or for any other purpose connected with the administration of a lottery.
- (3) In subsection (2) “promotional material” means a document which – 35
- (a) advertises a specified lottery,
 - (b) invites participation in a specified lottery,
 - (c) contains information about how to participate in a specified lottery, or
 - (d) lists winners in a specified lottery.

- (4) Where arrangements for a lottery are made by an external lottery manager on behalf of a society or authority, for the purposes of this Act both the external lottery manager and the society or authority promote the lottery.

247 Lottery ticket

- (1) For the purposes of this Act a document or article is a lottery ticket if it confers, or can be used to prove, membership of a class for the purpose of the allocation of prizes in a lottery. 5
- (2) A reference in this Act to the sale or supply of a lottery ticket by a person includes a reference to a person doing anything as a result of which another person becomes a member of the class among whom prizes in a lottery are to be allocated. 10
- (3) A reference in this Act to purchase of a lottery ticket includes a reference to any action by a person as a result of which he becomes a member of the class among whom prizes in a lottery are to be allocated.

248 Proceeds and profits

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- (1) In this Act a reference to the proceeds of a lottery is a reference to the aggregate of amounts paid in respect of the purchase of lottery tickets.
- (2) In this Act a reference to the profits of a lottery is a reference to –
- (a) the proceeds of the lottery, minus
 - (b) amounts deducted by the promoters of the lottery in respect of – 20
 - (i) the provision of prizes,
 - (ii) sums to be made available for allocation in another lottery in accordance with a rollover, or
 - (iii) other costs reasonably incurred in organising the lottery.

249 Draw

25

In this Act “draw”, in relation to a lottery, includes any process by which a prize in the lottery is allocated.

250 Rollover

- (1) In this Act “rollover” in relation to a lottery means an arrangement whereby the fact that a prize is not allocated or claimed in one lottery increases the value of the prizes available for allocation in another lottery. 30
- (2) For the purposes of this Act where prizes are allocated by means of more than one draw –
- (a) the draws together constitute a single lottery if the class of persons among whom prizes are allocated is (and, by virtue of arrangements for the sale or supply of tickets, must be) the same in the case of each draw, and 35
 - (b) otherwise, the arrangements for each draw constitute a separate lottery.

251 External lottery manager

A person acts as an external lottery manager for the purposes of this Act if he makes arrangements for a lottery on behalf of a society or authority of which he is not –

- (a) a member, 5
- (b) an officer, or
- (c) an employee under a contract of employment.

*Offences***252 Promotion of lottery**

- (1) A person commits an offence if he promotes a lottery unless – 10
 - (a) the exception in subsection (2) or (3) applies, or
 - (b) the lottery is an exempt lottery.
- (2) This section does not apply to activity by a person if –
 - (a) he holds an operating licence authorising the activity, and
 - (b) he acts in accordance with the terms and conditions of the licence. 15
- (3) This section does not apply to activity by a person if –
 - (a) he acts, otherwise than as an external lottery manager, on behalf of a person who holds an operating licence authorising the activity, and
 - (b) the activity is carried on in accordance with the terms and conditions of the licence. 20
- (4) It is a defence for a person charged with an offence under this section to show that he reasonably believed that –
 - (a) he was not committing the offence by reason of subsection (1)(b), (2) or (3),
 - (b) that the arrangement to which the charge relates was not a lottery, or 25
 - (c) that the arrangement to which the charge relates was a lottery forming part of the National Lottery.
- (5) In this Act “exempt lottery” means a lottery which is exempt by virtue of a provision of Schedule 11.

253 Facilitating a lottery 30

- (1) A person commits an offence if he facilitates a lottery unless –
 - (a) the exception in subsection (3) applies, or
 - (b) the lottery is an exempt lottery.
- (2) For the purposes of this section a person facilitates a lottery if (and only if) he –
 - (a) prints lottery tickets for a specified lottery, 35
 - (b) prints promotional material for a specified lottery, or
 - (c) advertises a specified lottery.
- (3) This section does not apply to activity by a person if he acts in accordance with the terms and conditions of an operating licence.
- (4) It is a defence for a person charged with an offence under this section to show that he reasonably believed – 40

-
- (a) that he was not committing the offence by reason of subsection (1)(b) or (3), or
- (b) that the arrangement to which the charge relates was not a lottery, or
- (c) that the arrangement to which the charge relates was a lottery forming part of the National Lottery. 5
- (5) In subsection (2)(b) “promotional material” means a document which –
- (a) advertises a specified lottery,
- (b) invites participation in a specified lottery,
- (c) contains information about how to participate in a specified lottery, or
- (d) lists winners in a specified lottery. 10
- 254 Misusing profits of lottery**
- (1) This section applies to a lottery in respect of which the promoter has stated (in whatever terms) a fund-raising purpose for the promotion of the lottery.
- (2) A person commits an offence if he uses any part of the profits of a lottery to which this section applies for a purpose other than that stated. 15
- (3) The reference in subsection (2) to using profits includes a reference to permitting profits to be used.
- (4) In subsection (1) the reference to a statement of a purpose for the promotion of a lottery is a reference to a statement appearing –
- (a) on lottery tickets, or 20
- (b) in an advertisement for the lottery.
- (5) In subsection (4)(b) “advertisement” in relation to a lottery includes any written notice announcing that a lottery will take place or inviting people to participate in a lottery (in either case whether or not it also gives other information). 25
- 255 Misusing profits of exempt lottery**
- (1) This section applies to the following kinds of lottery –
- (a) an incidental non-commercial lottery (within the meaning of Part 1 of Schedule 11),
- (b) a private society lottery (within the meaning of Part 2 of that Schedule), and 30
- (c) a small society lottery (within the meaning of Part 4 of that Schedule).
- (2) A person commits an offence if he uses any part of the profits of a lottery to which this section applies for a purpose other than one for which the lottery is permitted to be promoted in accordance with Schedule 11. 35
- (3) Subsection (3) of section 254 shall have effect for the purpose of this section as it has effect for the purpose of that section.
- 256 Small society lottery: breach of condition**
- A non-commercial society commits an offence if –
- (a) a lottery, purporting to be an exempt lottery under Part 4 of Schedule 11, is promoted on the society’s behalf wholly or partly at a time when 40

- the society is not registered with a local authority in accordance with Part 5 of that Schedule,
- (b) the society fails to comply with the requirements of paragraph 40 of that Schedule, or
 - (c) the society provides false or misleading information for the purposes of paragraph 40 of that Schedule. 5

257 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, 10
 - (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.

Miscellaneous 15

258 Preventing repetitive play

- (1) The Secretary of State may make regulations—
 - (a) requiring the Commission to attach to lottery operating licences under section 73 a specified condition;
 - (b) attaching a specified condition to lottery operating licences; 20
 - (c) making a specified condition an additional condition to be satisfied by an exempt lottery under paragraph 1(1)(b), 9(1)(b), 20(1)(c) or 30(1)(c) of Schedule 11.
- (2) A condition specified under subsection (1) must be intended by the Secretary of State to reduce the temptation, or to limit the opportunity, for a person to enter a number of lotteries in succession. 25
- (3) Regulations under this section may, in particular—
 - (a) make provision generally or only in relation to a specified description of lottery or only in relation to specified circumstances;
 - (b) provide for exceptions or alternatives; 30
 - (c) apply irrespective of whether a succession of lotteries is promoted by the same person or by different persons.

259 Exclusion of the National Lottery

The preceding provisions of this Part do not apply to the National Lottery.

General 35

260 Territorial application

- (1) This Part applies to anything done in relation to a lottery—
 - (a) in Great Britain, or

- (b) by the provision of, or by means of, remote gambling equipment situated in Great Britain.
- (2) For the purposes of subsection (1) it is immaterial whether the lottery is promoted wholly or partly –
 - (a) elsewhere in the United Kingdom, or
 - (b) outside the United Kingdom.

PART 12

CLUBS, PUBS, FAIRS, &C.

Clubs

261 Members' club 10

- (1) In this Act members' club means a club –
 - (a) which is established and conducted wholly or mainly for purposes other than the provision of facilities for gaming (subject to subsection (2)),
 - (b) which is established and conducted for the benefit of its members (and which is not otherwise established or conducted as a commercial enterprise),
 - (c) which is not established with the purpose of functioning only for a limited period of time, and
 - (d) 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 –
 - (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.

262 Commercial club

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

263 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). 5
- (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, 10
 - (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; 15
- 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 20
 - (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 25
 - (iii) the charitable trust known as the Coal Industry Social Welfare Organisation.

264 Exempt gaming

- (1) Sections 32 and 36 shall not apply to the provision of facilities for equal chance gaming which satisfies the conditions of this section by –
- (a) a members' club,
 - (b) a commercial club,
 - (c) a club that would be a members' club but for section 261(1)(a), 35
 - (d) a club that would be a commercial club but for section 262(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. 40
- (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. 5
- (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 10
 - (b) is a guest of a member of the club or institute who would be entitled to participate by virtue of paragraph (a).

265 Section 264: supplementary

- (1) In section 264(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 15
 - (b) in the course of its activities.
- (2) Regulations prescribing requirements in relation to stakes or prizes for the purposes of section 260(2) may, in particular –
 - (a) make different provision for different classes of club or institute; 20
 - (b) make different provision for different classes or descriptions of game.
- (3) In section 264(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 25
 - (b) a person providing facilities for gaming on behalf of, or by arrangement with, the club or institute.
- (4) Regulations prescribing a maximum charge for the purposes of section 264(4) may, in particular –
 - (a) make different provision for different classes of club or institute; 30
 - (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. 35
- (5) For the purposes of section 264(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; 40and 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 264(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 45

- (b) for the purpose only of enabling the person to take advantage of facilities for gaming provided by or for the club or institute.

266 Club gaming permit

- (1) Sections 32, 36 and 236 shall not apply to the provision of facilities for gaming in accordance with a club gaming permit. 5
- (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. 10
- (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 264 except for the first condition, and 15
 - (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), 20
 - (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 amount of the deduction or levy and about the method by which the amount is determined), 25
 - (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. 30
- (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. 35
- (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 40
 - (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 – 45

- (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.

267 Section 266: supplementary 5

- (1) For the purposes of section 266(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. 10
- (2) In section 266(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 15
 - (d) persons providing services to or for the club or institute.
- (3) For the purposes of section 266(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 266(5) and subsection (2) above 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. 20

268 Club machine permit 25

- (1) Sections 36 and 236 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. 30
- (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). 35
- (4) A club machine permit shall, by virtue of this subsection, be subject to the conditions – 40

-
- (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— 5
- (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.
- 269 Procedure, &c.** 10
- (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 280(1). 15
- 270 Bingo**
- (1) The disapplication of section 32 by section 264 or 266 shall not apply to high turnover bingo played during a high turnover period. 20
 - (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 25
 - (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 30
 - (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. 35
 - (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. 40
 - (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.

271 Interpretation 5

In sections 261 to 270 –

“prescribed” means prescribed by regulations, and

“regulations” means regulations made by the Secretary of State.

Pubs, &c.

272 Alcohol licence 10

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 15

(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.

273 Application of sections 274 to 279 20

Sections 274 to 279 apply to premises –

(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 25

(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.

274 Exempt gaming 30

(1) Sections 32 and 36 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 – 35

(a) limiting amounts that may be staked, or

(b) limiting 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. 40

- (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. 5
- (6) The fifth condition of gaming for the purposes of subsection (1) is that children and young persons are excluded from participation.

275 Section 274: supplementary

- (1) In section 274(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. 10
- (2) For the purposes of section 274(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; 15
 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.

276 Bingo 20

- (1) The disapplication of section 32 by section 274 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 25
 - (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 30
 - (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. 35
- (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. 40
- (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.

277 Gaming machines: automatic entitlement 5

- (1) Sections 36 and 236 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 are that the person who holds the on-premises alcohol licence or the relevant Scottish licence sends the licensing authority – 10
 - (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. 15
- (4) Subsection (1) does not disapply section 36 or 236 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.’. 20
- (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. 25

278 Licensed premises gaming machine permits

- (1) A person does not commit an offence under section 36 or 236 if he makes a gaming machine of Category C or D available in accordance with a licensed premises gaming machine permit. 30
- (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. 35
- (4) Subsection (1) does not disapply section 36 or 236 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. 40
- (5) Schedule 13, which makes further provision about licensed premises gaming machine permits, shall have effect except in relation to Scotland.

279 Removal of exemption

- (1) A licensing authority may make an order disapplying section 274 or section 277(1) to specified premises.
- (2) A licensing authority may make an order disapplying a section under subsection (1) only if they think that – 5
- (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 10
 - (d) an offence under this Act has been committed on the premises.
- (3) Before making an order under subsection (1) a licensing authority shall – 15
- (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 – 20
- (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 – 25
- (a) in the magistrates’ court for a petty sessions area in which the premises to which the appeal relates are wholly or partly situated,
 - (b) by notice of appeal given to the justices’ chief executive, 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. 30
- (7) On an appeal the magistrates’ court may – 35
- (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 – 40
- (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. 45

Clubs, pubs &c: special provision for Scotland

280 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 – 5
- (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 10
 - (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. 15
- (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.
- (3) In subsection (2), “enactment” includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament. 20

Fairs

281 Interpretation: travelling fair

For the purposes of this Act –

- (a) “fair” means a fair consisting wholly or principally of the provision of amusements, and 25
- (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. 30

282 Gaming machines

A person does not commit an offence under section 36 or 236 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. 35

PART 13

PRIZE GAMING

283 Meaning of “prize gaming”

Gaming is prize gaming for the purposes of this Act if neither the nature nor the size of a prize played for is determined by reference to – 5

- (a) the number of persons playing,
- (b) the amount staked or raised by the gaming, or
- (c) any other matter relating to the progress or outcome of a game.

284 Prize gaming permits

- (1) A person does not commit an offence under section 32 or 36 by providing facilities for prize gaming if – 10
 - (a) the gaming satisfies the conditions specified in section 288, and
 - (b) the facilities are provided in accordance with a prize gaming permit.
- (2) A prize gaming permit is a permit issued by a licensing authority authorising a person to provide facilities for gaming with prizes on specified premises. 15
- (3) Schedule 14 makes further provision about prize gaming permits.

285 Gaming and entertainment centres

- (1) A person does not commit an offence under section 32 or 36 by providing facilities for prize gaming if – 20
 - (a) the gaming satisfies the conditions specified in section 288, and
 - (b) the facilities are provided in –
 - (i) an adult gaming centre, or
 - (ii) a licensed family entertainment centre.
- (2) A person does not commit an offence under section 32 or 36 by providing facilities for equal chance prize gaming if – 25
 - (a) the gaming satisfies the conditions specified in section 288, and
 - (b) the facilities are provided on premises in respect of which a family entertainment centre gaming machine permit has effect.

286 Bingo halls

- (1) A person does not commit an offence under section 32 or 36 by providing facilities for prize gaming in premises in respect of which a bingo premises licence has effect. 30
- (2) A condition may be attached under section 73 or 76 to an operating licence so as –
 - (a) to prevent facilities for a specified description of game from being provided in reliance on subsection (1), or 35
 - (b) to provide for subsection (1) to apply, whether generally or only in connection with a specified description of game, subject to specified conditions or only in specified circumstances.

- (3) A condition attached under section 76 by virtue of subsection (2) above may, in particular, relate to a matter listed in section 89(1).
- (4) Subsection (1) may not be disapplied or modified –
 - (a) by way of a condition attached to an operating licence under section 75, or
 - (b) by way of a condition attached to a premises licence under section 165, 166 or 167.

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287 Fairs

A person does not commit an offence under section 32 or 36 by providing facilities for equal chance prize gaming if –

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- (a) the gaming satisfies the conditions specified in section 288,
- (b) the facilities are provided at a travelling fair, and
- (c) facilities for gambling (in whatever form) amount together to no more than an ancillary amusement at the fair.

288 Conditions for prize gaming

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- (1) This section specifies the conditions mentioned in sections 284(1), 285(1) and (2) and 287 for prize gaming.
- (2) The first condition is compliance with such limits as may be prescribed in respect of participation fees (and those limits may, in particular, relate to players, games or a combination).
- (3) The second condition is that –
 - (a) all the chances to participate in a particular game must be acquired or allocated on one day and in the place where the game is played,
 - (b) the game must be played entirely on that day, and
 - (c) the result of the game must be made public –
 - (i) in the place where the game is played, and
 - (ii) as soon as is reasonably practicable after the game ends, and in any event on the day on which it is played.
- (4) The third condition is that the prize for which a game is played, or the aggregate of the prizes for which a game is played –
 - (a) where all the prizes are money, must not exceed the prescribed amount, and
 - (b) in any other case, must not exceed the prescribed value.
- (5) The fourth condition is that participation in the game by a person does not entitle him or another person to participate in any other gambling (whether or not he or the other person would also have to pay in order to participate in the other gambling).
- (6) In this section “prescribed” means prescribed by regulations made by the Secretary of State.

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289 Power to restrict exemptions

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The Secretary of State may by order provide for sections 284, 285 and 287 not to have effect in relation to prize gaming of a specified description.

PART 14

PRIVATE AND NON-COMMERCIAL GAMING AND BETTING

*Private gaming and betting***290 Interpretation**

Schedule 15 (which defines private gaming and betting) shall have effect. 5

291 Exceptions to offences

- (1) A person does not commit an offence under section 32 by providing facilities for –
- (a) private gaming, or
 - (b) private betting. 10
- (2) Section 36 shall not apply to or in respect of the use of premises to carry on –
- (a) private gaming, or
 - (b) private betting.
- (3) A person does not commit an offence under section 32 or 36 by making or accepting a bet, or by offering to make or accept a bet, if he acts otherwise than in the course of a business. 15

*Non-commercial gaming and betting***292 Interpretation**

- (1) For the purposes of this Act gaming is non-commercial if it takes place at a non-commercial event (whether as an incidental activity or as the principal or only activity). 20
- (2) An event is non-commercial if the arrangements for the event are such that no part of the proceeds is to be appropriated for the purpose of private gain.
- (3) For the purposes of subsection (2) the proceeds of an event are –
- (a) the sums raised by the organisers (whether by way of fees for entrance or for participation, by way of sponsorship, by way of commission from traders or otherwise), minus
 - (b) amounts deducted by the organisers in respect of costs reasonably incurred in organising the event. 25

293 Exceptions to offences

- (1) A person does not commit an offence under section 32 by providing facilities for –
- (a) non-commercial prize gaming which complies with the conditions in section 294, or
 - (b) non-commercial equal chance gaming which complies with the conditions in section 295. 30
- (2) Section 36 shall not apply to or in respect of the use of premises to carry on – 35

- (a) non-commercial prize gaming which complies with the conditions in section 294, or
- (b) non-commercial equal chance gaming which complies with the conditions in section 295.

294 Conditions for non-commercial prize gaming 5

- (1) This section specifies the conditions for non-commercial prize gaming mentioned in section 293.
- (2) The first condition is that players are informed that the purpose of the gaming is to raise money for a specified purpose other than that of private gain.
- (3) The second condition is that the arrangements for the gaming are such that the profits will be applied for a purpose other than that of private gain. 10
- (4) The third condition is that the non-commercial event of which the gaming is part does not take place –
 - (a) on premises, other than a track, in respect of which a premises licence has effect, 15
 - (b) on a track at a time when activities are being carried on in reliance on a premises licence, or
 - (c) on premises at a time when activities are being carried on in reliance on a temporary use notice.
- (5) The fourth condition is that the gaming is not remote. 20
- (6) In this section “profits” in relation to gaming means –
 - (a) the aggregate of amounts –
 - (i) paid by way of stakes, or
 - (ii) otherwise accruing to the person organising the gaming directly in connection with it, minus 25
 - (b) amounts deducted by the person organising the gaming in respect of –
 - (i) the provision of prizes, or
 - (ii) other costs reasonably incurred in organising or providing facilities for the gaming.

295 Conditions for non-commercial equal-chance gaming 30

- (1) This section specifies the conditions for non-commercial equal-chance gaming mentioned in section 293.
- (2) The first condition is that persons participating in the gaming are informed that the purpose of the gaming is to raise money for a specified purpose other than that of private gain. 35
- (3) The second condition is that the arrangements for the gaming are such that the profits will be applied for a purpose other than that of private gain.
- (4) The third condition is that the arrangements for the gaming ensure compliance with regulations of the Secretary of State –
 - (a) limiting amounts staked; 40
 - (b) limiting participation fees;
 - (c) limiting other amounts paid by a person in connection with the gaming;

- (d) limiting a combination of matters specified in paragraphs (a) to (c);
 - (e) limiting the amount or value of a prize;
 - (f) limiting the aggregate amount or value of prizes.
- (5) Regulations under subsection (4) may, in particular –
- (a) make provision by reference to whether or not a game is part of a series; 5
 - (b) make provision by reference to whether or not the non-commercial event of which the gaming is part is associated, as defined by the regulations, with another event;
 - (c) limit stakes in relation to a participant in more than one game;
 - (d) make different provision for different kinds of game or for games played in different circumstances. 10
- (6) The fourth condition is that the non-commercial event of which the gaming is part does not take place –
- (a) on premises, other than a track, in respect of which a premises licence has effect, 15
 - (b) on a track at a time when activities are being carried on in reliance on a premises licence, or
 - (c) on premises at a time when activities are being carried on in reliance on a temporary use notice.
- (7) The fifth condition is that the gaming is non-remote. 20
- (8) In this section “profits” in relation to gaming means –
- (a) the aggregate of amounts –
 - (i) paid by way of stakes, or
 - (ii) otherwise accruing to the person organising the gaming directly in connection with it, minus 25
 - (b) amounts deducted by the person organising the gaming in respect of –
 - (i) the provision of prizes, or
 - (ii) other costs reasonably incurred in organising or providing facilities for the gaming.
- 296 Misusing profits of non-commercial prize gaming 30**
- (1) This section applies to –
- (a) non-commercial prize gaming in respect of which a fund-raising purpose has been specified as mentioned in section 294(2), and
 - (b) non-commercial equal-chance gaming in respect of which a fund-raising purpose has been specified as mentioned in section 295(2). 35
- (2) A person commits an offence if he uses any part of the profits of gaming to which this section applies for a purpose other than that specified.
- (3) The reference in subsection (2) to the use of profits includes a reference to permitting profits to be used.
- (4) A person guilty of an offence under this section shall be liable on summary conviction to – 40
- (a) imprisonment for a term not exceeding 51 weeks,
 - (b) a fine not exceeding level 5 on the standard scale, or
 - (c) both.

- (5) In the application of subsection (4) to Scotland the reference to 51 weeks shall have effect as a reference to six months.
- (6) In this section “profits” has the same meaning as in sections 294 and 295.

297 Non-commercial betting

For the purposes of this Act a betting transaction is non-commercial betting if no party to the transaction – 5

- (a) enters it in the course of a business, or
- (b) holds himself out as being in business in relation to the acceptance of bets.

PART 15 10

INSPECTION

Inspectors

298 Enforcement officers

- (1) The Commission –
 - (a) may designate employees of the Commission as enforcement officers for the purposes of this Act, and 15
 - (b) may appoint persons other than employees of the Commission as enforcement officers for the purposes of this Act.
- (2) The Commission may pay to or in respect of an enforcement officer who is not an employee of the Commission sums by way of or in respect of – 20
 - (a) remuneration;
 - (b) allowances;
 - (c) expenses;
 - (d) pension;
 - (e) gratuity. 25

299 Authorised persons

- (1) In this Act –
 - (a) “authorised person” has the meaning given by this section, and
 - (b) a reference to an authorised local authority officer is a reference to a person who is an authorised person by virtue of subsection (2). 30
- (2) An officer of a licensing authority is an authorised person for a purpose relating to premises if –
 - (a) the premises are wholly or partly situated in the authority’s area, and
 - (b) the officer is designated by the authority as an authorised person for the purposes of this section. 35
- (3) An officer of an authority other than a licensing authority is an authorised person for a purpose relating to premises if –
 - (a) the authority has statutory functions, for an area in which the premises are wholly or partly situated, in relation to minimising or preventing

- the risk of pollution of the environment or of harm to human health, and
- (b) the officer is authorised by the authority for the purpose of exercising any of those statutory functions.
- (4) The following are authorised persons for purposes relating to any premises – 5
- (a) an inspector appointed under section 18 of the Fire Precautions Act 1971 (c. 40) (enforcement),
- (b) an inspector appointed under section 19 of the Health and Safety at Work etc. Act 1974 (c. 37) (inspectors),
- (c) an inspector or surveyor of ships appointed under section 256 of the Merchant Shipping Act 1995 (c. 21) (enforcement), 10
- (d) an officer of Her Majesty’s Commissioners of Customs and Excise designated by them for the purposes of this section, and
- (e) a person who is within a class prescribed by the Secretary of State by regulations. 15

Kinds of inspection

300 Suspected offence

- (1) A constable or enforcement officer may enter premises if he reasonably suspects that an offence under this Act may be – 20
- (a) being committed on the premises, or
- (b) about to be committed on the premises.
- (2) A justice of the peace may on the application of a constable or enforcement officer issue a warrant authorising a constable or enforcement officer to enter premises if the justice of the peace is satisfied – 25
- (a) that there are reasonable grounds for suspecting that an offence under this Act has been committed on the premises,
- (b) that there are reasonable grounds for suspecting that evidence of the commission of the offence may be found on the premises, and
- (c) that at least one of the conditions in subsection (3) is satisfied.
- (3) Those conditions are – 30
- (a) that admission to the premises has been refused,
- (b) that admission to the premises is likely to be refused unless a warrant is produced,
- (c) that the purpose of entry may be frustrated or seriously prejudiced unless a constable or enforcement officer arriving at the premises can secure immediate entry, and 35
- (d) that there is likely to be nobody at the premises capable of granting admission.
- (4) A warrant may be granted in reliance on subsection (3)(a) or (b) only if the justice of the peace is satisfied – 40
- (a) that notice has been given to a person occupying the premises, or having responsibility for their management, of intent to apply for a warrant, or
- (b) that the purpose of entry may be frustrated or seriously prejudiced by the giving of notice under paragraph (a). 45

- (5) A warrant under subsection (2) shall cease to have effect at the end of the period of 28 days beginning with the day of issue.

301 Inspection of gambling

- (1) A constable, enforcement officer or authorised person may enter premises to which this section applies for a purpose specified in subsection (3). 5
- (2) This section applies to premises if a constable, enforcement officer or authorised person reasonably suspects that facilities for gambling other than private and non-commercial gaming or betting may be being provided, may be about to be provided or have been provided, on the premises.
- (3) The purposes mentioned in subsection (1) are – 10
- (a) to discover whether facilities for gambling other than private and non-commercial gaming or betting are being provided, are about to be provided or have been provided on the premises,
 - (b) to determine whether an operating licence or premises licence is held in respect of the provision of facilities for gambling on the premises, and 15
 - (c) to determine whether facilities are being, will be or have been provided in accordance with the terms and conditions of an operating licence or premises licence.

302 Operating licence holders

- (1) A constable or enforcement officer may enter premises to which this section applies for the purpose specified in subsection (3). 20
- (2) This section applies to premises which a constable or enforcement officer reasonably believes to be used by the holder of an operating licence wholly or partly for purposes connected with the licensed activities.
- (3) The purpose mentioned in subsection (1) is to determine whether the licensed activities are being carried on in accordance with the terms and conditions of the operating licence. 25

303 Family entertainment centres

- (1) A constable, enforcement officer or authorised local authority officer may enter premises in respect of which an application has been made for a family entertainment centre gaming machine permit for a purpose connected with the consideration of the application. 30
- (2) A constable, enforcement officer or authorised local authority officer may enter premises in respect of which a family entertainment centre gaming machine permit has effect for the purpose of determining whether the gaming machines used on the premises, and the arrangements for their use, comply with the requirements of this Act and regulations under it. 35

304 Premises licensed for alcohol

- (1) An enforcement officer or an authorised local authority officer may enter premises in respect of which an application has been made under Schedule 13 for a purpose connected with the consideration of the application. 40

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- (2) A constable, enforcement officer or authorised local authority officer may enter premises in respect of which an on-premises alcohol licence has effect for the purpose of –
- (a) determining whether gaming carried on satisfies the conditions in section 274; 5
 - (b) in the case of bingo played on the premises, determining –
 - (i) whether the terms and conditions of any relevant operating licence are being complied with;
 - (ii) whether section 276 applies;
 - (c) ascertaining the number and category of gaming machines being made available for use on the premises. 10
- 305 Prize gaming permit**
- (1) A constable, enforcement officer or authorised local authority officer may enter premises in respect of which an application has been made for a prize gaming permit for a purpose connected with the consideration of the application. 15
- (2) A constable, enforcement officer or authorised local authority officer may enter premises in respect of which a prize gaming permit has effect for the purposes of determining whether prize gaming on the premises complies with the requirements of this Act and regulations under it.
- 306 Clubs** 20
- (1) A constable or enforcement officer may enter premises to which this section applies for a purpose specified in subsection (3).
- (2) This section applies to premises which a constable or enforcement officer reasonably believes to be used by a members’ club, a commercial club or a miners’ welfare institute. 25
- (3) The purposes mentioned in subsection (1) are –
- (a) to determine whether gaming is taking place on the premises or is about to take place on the premises,
 - (b) to determine whether any gaming that is taking place or is about to take place on the premises is in accordance with – 30
 - (i) section 264,
 - (ii) a club gaming permit, or
 - (iii) a club machine permit.
- (4) An authorised local authority officer may enter premises in respect of which an application has been made for a club gaming permit or a club machine permit for a purpose connected with the consideration of the application. 35
- 307 Licensed premises**
- (1) A constable, enforcement officer or authorised person may enter premises in respect of which an application for a premises licence has been made to assess, having regard to the licensing objectives, the likely effects of activity carried on in reliance on the premises licence. 40
- (2) A constable, enforcement officer or authorised person may enter premises in respect of which a premises licence has effect for a purpose connected with a review under section 195.

308 Lotteries: registered societies

Where a society is registered with a local authority in accordance with Part 5 of Schedule 11, an enforcement officer or an authorised local authority officer may enter premises owned or used by the society for the purpose of making inquiries in connection with a lottery promoted on behalf of the society. 5

309 Temporary use notice

- (1) A constable, enforcement officer or authorised person may enter premises in respect of which a temporary use notice has been given to assess, having regard to the licensing objectives, the likely effects of activity carried on in reliance on the temporary use notice. 10
- (2) A constable, enforcement officer or authorised person may enter premises in respect of which a temporary use notice has effect to determine whether an activity of a kind listed in section 36(1) is being carried on otherwise than in accordance with the temporary use notice.

310 Authorisations: production on demand 15

- (1) A constable or enforcement officer may require the holder of an operating licence to produce to the constable or enforcement officer within a specified period a copy of any authorisation given by the holder of the licence under section 91(2) or (3) or 92(2).
- (2) While a person is holding himself out as willing to accept bets on behalf of the holder of an operating licence in accordance with section 91(2) or (3) or 92(2), a constable or enforcement officer may require the person to produce a copy of his authorisation under that section – 20
 - (a) within a specified period, or
 - (b) immediately. 25
- (3) A constable or enforcement officer may require the holder of a casino premises licence to produce to the constable or enforcement officer within a specified period a copy of any authorisation given by the holder of the licence under section 172(3).
- (4) While a person is carrying on an activity in reliance on an authorisation under section 172(3), a constable or enforcement officer may require the person to produce a copy of his authorisation under that section – 30
 - (a) within a specified period, or
 - (b) immediately.
- (5) A person commits an offence if he fails without reasonable excuse to comply with a requirement imposed under this section. 35
- (6) A person guilty of an offence under subsection (5) shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

Powers and procedure

311 Powers 40

- (1) A constable, enforcement officer or authorised person exercising a power under or by virtue of this Part to enter premises may –

- (a) inspect any part of the premises and any machine or other thing on the premises;
 - (b) question any person on the premises;
 - (c) require access to any written or electronic record which is kept on the premises; 5
 - (d) require to be supplied with a copy, in such form as he directs, of an entry in a written or electronic record which is kept on the premises;
 - (e) remove and retain anything if he reasonably believes that it constitutes or contains evidence of –
 - (i) the commission of an offence under this Act, or 10
 - (ii) the breach of a term or condition of a licence issued under this Act;
 - (f) remove and retain anything if he reasonably believes that it is being used or has been used in the commission of an offence under this Act.
- (2) The Secretary of State may by regulations make provision about the treatment of – 15
- (a) copies supplied under subsection (1)(d), and
 - (b) things removed under subsection (1)(e) or (f).
- (3) Regulations under subsection (2) may, in particular, make provision – 20
- (a) about the retention, use, return, disposal or destruction of anything supplied or removed;
 - (b) conferring a right of appeal.
- (4) The Secretary of State may by regulations make provision about the procedure to be followed in the exercise of a power under this section.
- (5) Nothing in this Part authorises action to be taken in respect of anything of a kind specified in section 9(2) of the Police and Criminal Evidence Act 1984 (c. 60) (legally privileged material, &c.). 25
- (6) A person exercising a power under or by virtue of this Part shall have regard to any relevant provision of a code of practice under that Act (and guidance under section 25 may refer to a provision of a code). 30

312 Dwellings

- (1) A power under this Part to enter premises without a warrant does not apply in relation to a dwelling.
- (2) A justice of the peace may on the application of a constable, enforcement officer or authorised person issue a warrant authorising a constable, enforcement officer or authorised person to enter premises if the justice of the peace is satisfied – 35
- (a) that, but for subsection (1), a constable, enforcement officer or authorised person would be able to enter the premises without a warrant in reliance on a provision of this Part, and 40
 - (b) that at least one of the conditions in subsection (3) is satisfied.
- (3) Those conditions are –
- (a) that admission to the premises has been refused,
 - (b) that admission to the premises is likely to be refused unless a warrant is produced, 45

-
- (c) that the purpose of entry may be frustrated or seriously prejudiced unless a constable, enforcement officer or authorised person arriving at the premises can secure immediate entry, and
 - (d) that there is likely to be nobody at the premises capable of granting admission. 5
 - (4) A warrant may be granted in reliance on subsection (3)(a) or (b) only if the justice of the peace is satisfied –
 - (a) that notice has been given to a person occupying the premises, or having responsibility for their management, of intent to apply for a warrant, or 10
 - (b) that the purpose of entry may be frustrated or seriously prejudiced by the giving of notice under paragraph (a).
 - (5) A warrant under subsection (2) shall cease to have effect at the end of the period of 28 days beginning with the day of issue.
- 313 Records 15**
- (1) A constable, enforcement officer or authorised person exercising a power of entry under or by virtue of this Part may exercise a power under section 311(1)(c) to (e) in relation to records (whether written or electronic) only if the records relate entirely to the matters to which the power of entry relates.
 - (2) A justice of the peace may on the application of a constable, enforcement officer or authorised person issue a warrant disapplying subsection (1) to a specified extent if the justice of the peace is satisfied that the disapplication is necessary. 20
 - (3) A warrant may be granted under subsection (2) only if the justice of the peace is satisfied –
 - (a) that notice has been given to a person in control of the records of intent to apply for a warrant, or 25
 - (b) that the purpose of exercising the power of entry may be frustrated or seriously prejudiced by the giving of notice under paragraph (a).
 - (4) A warrant under subsection (2) shall cease to have effect at the end of the period of 28 days beginning with the day of issue. 30
- 314 Timing**
- A power under or by virtue of this Part may be exercised only at a reasonable time.
- 315 Evidence of authorisation 35**
- An enforcement officer or authorised person seeking to exercise a power under or by virtue of this Part must produce evidence of his identity and authority to a person (if there is one) who appears to the enforcement officer or authorised person to be occupying the relevant premises or to have responsibility for their management.

316 Information

- (1) The Secretary of State shall make regulations requiring a person who exercises a power under or by virtue of this Part to provide information about the power and its exercise.
- (2) Regulations under subsection (1) shall, in particular, make provision about— 5
- (a) the information to be provided (which may include ancillary information about a provision of this Act or another enactment or about a rule of law);
 - (b) the form and manner in which the information is to be provided;
 - (c) the person to whom, or the place at which, the information is to be provided (which may, in particular, include provision for the supply of a copy if requested by a person within a specified class); 10
 - (d) timing.
- (3) A constable, enforcement officer or authorised person exercising a power under or by virtue of this Part shall comply with any relevant provision of regulations under this section. 15

317 Use of force

- (1) A constable may use reasonable force for the purpose of entering premises in pursuance of a power under or by virtue of this Part.
- (2) An enforcement officer may use reasonable force for the purpose of entering premises in pursuance of a power under or by virtue of section 300 or 301. 20
- (3) An authorised person may use reasonable force for the purpose of entering premises in pursuance of a power under section 301.

318 Person accompanying inspector, &c.

A constable, enforcement officer or authorised person exercising a power under or by virtue of this Part to enter premises may take one or more persons with him. 25

319 Securing premises after entry

A person who enters premises in reliance on a power under or by virtue of this Part shall take reasonable steps to ensure that when he leaves the premises they are as secure as they were before he entered. 30

320 Obstruction

- (1) A person commits an offence if without reasonable excuse he obstructs, or fails to cooperate with, a constable, enforcement officer or authorised person who is exercising or seeking to exercise a power under or by virtue of this Part. 35
- (2) A person guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

PART 16

ADVERTISING

321 Meaning of “advertising”

- (1) For the purposes of this Act a person advertises gambling if –
 - (a) he does anything to encourage one or more persons to take advantage (whether directly or through an agent) of facilities for gambling, 5
 - (b) with a view to increasing the use of facilities for gambling, he brings them or information about them to the attention of one or more persons, or
 - (c) he participates in or facilitates an activity knowing or believing that it is designed to – 10
 - (i) encourage one or more persons to take advantage (whether directly or through an agent) of facilities for gambling, or
 - (ii) increase the use of facilities for gambling by bringing them or information about them to the attention of one or more persons. 15
- (2) For the purposes of subsection (1) a person shall be treated as bringing facilities for gambling to the attention of one or more persons with a view to increasing the use of the facilities if –
 - (a) he enters into arrangements (whether by way of sponsorship, brand-sharing or otherwise) under which a name is displayed in connection with an event or product, and 20
 - (b) either –
 - (i) the provision of facilities for gambling is the sole or main activity undertaken under that name, or
 - (ii) the manner or context in which the name is displayed is designed to draw attention to the fact that facilities for gambling are provided under that name. 25

322 Regulations

- (1) The Secretary of State may make regulations controlling the advertising of gambling. 30
- (2) The regulations may, in particular, make provision about –
 - (a) the form of advertisements;
 - (b) the content of advertisements;
 - (c) timing;
 - (d) location. 35
- (3) Regulations by virtue of subsection (2)(b) may, in particular, require specified words to be included in advertisements.
- (4) In making regulations under this section the Secretary of State shall, in particular, have regard to the need to protect children and other vulnerable persons from being harmed or exploited by gambling. 40
- (5) A person commits an offence if he contravenes a requirement of regulations under this section.
- (6) Regulations under this section may provide defences (whether similar to those provided by section 324 or otherwise).

- (7) A person guilty of an offence under subsection (5) 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. 5
- (8) Regulations under this section may, in particular, make provision generally or by reference to –
- (a) specified classes of gambling,
 - (b) specified classes of advertisement, or
 - (c) activity undertaken in or in connection with specified places. 10

323 Broadcasting

- (1) Regulations under section 322 may not make provision about advertising by way of television or radio services to which section 319 of the Communications Act 2003 (c. 21) applies.
- (2) The Office of Communications shall under that section set, review and revise standards in respect of advertisements for gambling. 15
- (3) In complying with subsection (2) the Office of Communications –
- (a) shall consult the Gambling Commission, and
 - (b) shall ensure that the standards reflect the provisions of regulations under section 322. 20
- (4) Regulations under section 322 may not make provision about advertising by way of a service which –
- (a) is provided by the British Broadcasting Corporation, and
 - (b) would be licensable under Part 1 or 3 of the Broadcasting Act 1990 (c. 42) or under Part 1 or 2 of the Broadcasting Act 1996 (c. 55) were it provided by a person subject to licensing under that Part. 25

324 Unlawful gambling

- (1) A person commits an offence if he advertises unlawful gambling.
- (2) For the purposes of this section advertised gambling is unlawful if –
- (a) in order for the gambling to take place as advertised without the commission of an offence under this Act it would or might be necessary to rely on a licence, notice, permit or registration under this Act or an exception to an offence under this Act, and
 - (b) at the time of advertising –
 - (i) arrangements for a licence, notice, permit or registration, sufficient to prevent the commission of an offence under this Act if the gambling takes place as advertised, have not been completed, and
 - (ii) the arrangements for the gambling as advertised are not such as to ensure that an exception to the offence will apply. 35
- (3) Subsection (1) does not apply to anything done by way of promoting a lottery.
- (4) It is a defence for a person charged with an offence under subsection (1) by reference to action of a kind described in section 321(1)(a) or (b) to show that he reasonably believed that the advertised gambling was lawful. 40

- (5) Where a person acts in a way described in section 321(1)(c) he commits the offence under subsection (1) above only if he knows or should know that the advertised gambling is unlawful.
- (6) A person does not commit an offence under subsection (1) by reason only of delivering, transmitting or broadcasting a communication or making data available if –
 - (a) he acts in the course of a business of delivering, transmitting or broadcasting communications (in whatever form or by whatever means) or making data available, and
 - (b) the nature of the business is such that persons undertaking it have no control over the nature or content of the communications or data.
- (7) A person guilty of an offence under this section 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.
- (8) In the application of subsection (7) to Scotland the reference to 51 weeks shall have effect as a reference to six months.

325 Foreign gambling

- (1) A person commits an offence if he advertises foreign gambling.
- (2) In this section “foreign gambling” means –
 - (a) non-remote gambling which is to take place in a non-EEA State, and
 - (b) remote gambling none of the arrangements for which are subject to the law about gambling of an EEA State (whether by being regulated, exempted, prohibited or otherwise).
- (3) The Secretary of State may by regulations provide that a specified country is to be treated for the purposes of subsection (2) as if it were an EEA State.
- (4) A person guilty of an offence under subsection (1) 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.

326 Territorial application: non-remote advertising

- (1) Regulations under section 322 shall apply to anything in the way of advertising which is done –
 - (a) wholly or partly in Great Britain, and
 - (b) otherwise than by way of remote communication.
- (2) The prohibition in section 324(1) applies to anything in the way of advertising which is done –
 - (a) wholly or partly in Great Britain, and
 - (b) otherwise than by way of remote communication.
- (3) The prohibition in section 325(1) applies to anything in the way of advertising which is done –

- (a) wholly or partly in the United Kingdom, and
 - (b) otherwise than by way of remote communication.
- (4) For the purposes of this section the following are immaterial –
- (a) the nature of gambling to which advertising relates (whether remote or non-remote), and 5
 - (b) the location of the gambling to which advertising relates.

327 Territorial application: remote advertising

- (1) Regulations under section 322 shall have effect in relation to advertising by way of remote communication only if –
- (a) the advertising satisfies the test in subsection (4), 10
 - (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 324(1) applies 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). 15
- (3) The prohibition in section 325(1) applies to advertising by way of remote communication only if the advertising satisfies the test in subsection (4); for which purpose a reference to Great Britain shall be taken as a reference to the United Kingdom. 25
- (4) The test referred to in subsections (1)(a), (2)(a) and (3) 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, 30
 - (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
 - (d) making data available in circumstances such that it is likely to be accessed by one or more persons in Great Britain. 35
- (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 89/552/EEC on the coordination of provisions concerning television broadcasting, or 40
 - (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 – 45

- (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 322 and of section 324. 5
- (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— 10
 - (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). 15
- (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
 - (b) in the case of remote gambling, that 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. 20

PART 17

LEGALITY AND ENFORCEABILITY OF GAMBLING CONTRACTS

- 328 Repeal of provisions preventing enforcement** 25
- (1) The following shall cease to have effect—
 - (a) section 1 of the Gaming Act 1710 (c. 19) (voiding of security for winnings or for repayment of gaming loan, &c.),
 - (b) remaining provisions of the Gaming Act 1835 (c. 41) (security deemed given for illegal consideration), 30
 - (c) section 18 of the Gaming Act 1845 (c. 109) (voiding of gaming contracts),
 - (d) section 1 of the Gaming Act 1892 (c. 9) (voiding of promise to repay), and
 - (e) in section 412 of the Financial Services and Markets Act 2000 (c. 8) (gaming contracts)— 35
 - (i) in subsection (1)(a), the words “section 18 of the Gaming Act 1845, section 1 of the Gaming Act 1892 or”, and
 - (ii) subsection (1)(b).
 - (2) The repeals in subsection (1) do not permit enforcement of a right which is created, or which emanates from an agreement made, before this section comes into force. 40

329 Enforceability of gambling contracts

- (1) The fact that a contract relates to gambling shall not prevent its enforcement.
- (2) Subsection (1) is without prejudice to any rule of law preventing the enforcement of a contract on the grounds of unlawfulness (other than a rule relating specifically to gambling). 5

330 Power of Gambling Commission to void bet

- (1) The Commission may make an order under this subsection in relation to a bet accepted by or through the holder of –
 - (a) a general betting operating licence, 10
 - (b) a pool betting operating licence, or
 - (c) a betting intermediary operating licence.
- (2) Where the Commission makes an order under subsection (1) in relation to a bet –
 - (a) any contract or other arrangement in relation to the bet is void, and
 - (b) any money paid in relation to the bet (whether by way of stake, winnings, commission or otherwise) shall be repaid to the person who paid it, and repayment may be enforced as a debt due to that person. 15
- (3) The Commission may make an order under subsection (1) in relation to a bet only if satisfied that the bet was substantially unfair.
- (4) In considering whether a bet was unfair the Commission shall, in particular, take account of any of the following that applies –
 - (a) the fact that either party to the bet supplied insufficient, false or misleading information in connection with it,
 - (b) the fact that either party to the bet believed or ought to have believed that a race, competition or other event or process to which the bet related was or would be conducted in contravention of industry rules, 25
 - (c) the fact that either party to the bet believed or ought to have believed that an offence under section 41 had been or was likely to be committed in respect of anything to which the bet related, and
 - (d) the fact that either party to the bet was convicted of an offence under section 41 in relation to the bet. 30
- (5) An order under subsection (1) may be made in relation to a bet only during the period of six months beginning with the day on which the result of the bet is determined.
- (6) But subsection (5) shall not apply to an order made taking account of the fact that a party to the bet was convicted of an offence under section 41 in relation to it. 35

331 Section 330: supplementary

- (1) Where the Commission makes an order under section 330(1) in relation to a bet a party to the bet or to any contract or other arrangement in relation to the bet may appeal to the Gambling Appeals Tribunal; and the following provisions of Part 7 shall have effect (with any necessary modifications) in relation to an appeal under this section as they have effect in relation to an appeal under that Part – 40

- (a) section 140,
 - (b) section 141,
 - (c) section 142,
 - (d) section 143,
 - (e) section 144, and
 - (f) section 145. 5
- (2) The Commission may make an order under section 330(1) in relation to the whole, or any part or aspect of, a betting transaction.
- (3) An order under section 330(1) may make incidental provision; in particular, an order may make provision about – 10
- (a) the consequences of the order for bets connected with the bet which becomes void under the order;
 - (b) the consequences of the order for other parts or aspects of a betting transaction one part or aspect of which becomes void under the order.
- (4) For the purposes of considering whether to make an order under section 330(1) in respect of a bet the Commission – 15
- (a) may require a person by or through whom the bet is made or accepted to provide information or documents in relation to it, and
 - (b) may take into account information received from any other person.
- (5) A person commits an offence if without reasonable excuse he fails to comply with a requirement under subsection (4). 20
- (6) A person guilty of an offence under subsection (5) shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.
- (7) In section 330(4)(b) “industry rules” means rules established by an organisation having, by virtue of an agreement, instrument or enactment, responsibility for the conduct of races, competitions or other events or processes. 25

332 Interim moratorium

- (1) Where the Commission has reason to suspect that it may wish to make an order under section 330(1) in relation to a bet, the Commission may make an order under this subsection in relation to the bet. 30
- (2) While an order under subsection (1) has effect in relation to a bet, an obligation to pay money in relation to the bet (whether by way of stake, winnings, commission or otherwise) shall have no effect.
- (3) An order under subsection (1) shall have effect for the period of 14 days beginning with the day on which the order is made (subject to extension under subsection (4) and without prejudice to the making of a new order). 35
- (4) The Commission may by order extend the period for which an order under subsection (1) has effect; and –
- (a) an order under this subsection may extend that period by the addition of not more than 14 days, and
 - (b) more than one order may be made under this subsection in relation to a bet. 40
- (5) The Commission may cancel an order under subsection (1) (without prejudice to the making of a new order).

- (6) The Commission shall cancel an order under subsection (1) as soon as is reasonably practicable after it ceases to entertain the suspicion mentioned in that subsection.
- (7) The Commission shall not be liable to make any payment on account only of the fact that it— 5
- (a) has made an order under subsection (1), and
- (b) not made a subsequent order under section 330(1).
- (8) But subsection (7) is without prejudice to any power of a court in legal proceedings (whether for tort or otherwise).

PART 18 10

MISCELLANEOUS AND GENERAL

Miscellaneous

333 Prize competitions

- Participating in a competition or other arrangement under which a person may win a prize is not gambling for the purposes of this Act unless it is— 15
- (a) gaming within the meaning of section 6,
- (b) participating in a lottery within the meaning of section 14, or
- (c) betting within the meaning of sections 9 to 11.

334 Foreign betting

- Sections 9 to 9B of the Betting and Gaming Duties Act 1981 (c. 63) (prohibitions, for protection of the revenue, in relation to foreign betting) shall cease to have effect. 20

335 Offence committed by body

- (1) Subsection (2) applies where an offence under this Act is committed by a body of persons corporate or unincorporate (other than a partnership) and it is proved that the offence was committed— 25
- (a) with the consent or connivance of an officer of the body, or
- (b) as a result of the negligence of an officer of the body.
- (2) The officer, as well as the body, shall be guilty of the offence.
- (3) In subsection (1) a reference to an officer of a body includes a reference to— 30
- (a) a director, manager or secretary,
- (b) a person purporting to act as a director, manager or secretary, and
- (c) if the affairs of the body are arranged by its members, a member.
- (4) Where an offence under this Act is committed by a partnership (other than a limited partnership) each partner shall be guilty of the offence. 35
- (5) Where an offence under this Act is committed by a limited partnership, subsections (1) and (2) shall have effect, but as if a reference to an officer of the body were a reference to a partner.

- (6) In relation to the prosecution of a body of persons unincorporate for an offence under this Act, the body shall be treated for all procedural purposes as if it were a body corporate.
- (7) The Secretary of State may by regulations make provision for the modification of a provision of this section in its application to a body of persons formed under, or in so far as the body is recognised by, law having effect outside the United Kingdom. 5

336 False information

- (1) A person commits an offence if without reasonable excuse he gives to the Commission or a licensing authority for a purpose connected with a provision of this Act (whether or not in relation to an application under this Act) information which is – 10
 - (a) false, or
 - (b) misleading.
- (2) A person guilty of an offence under this section shall be liable on summary conviction to – 15
 - (a) imprisonment for a term not exceeding 51 weeks,
 - (b) a fine not exceeding level 5 on the standard scale, or
 - (c) both.
- (3) In the application of subsection (2) to Scotland the reference to 51 weeks shall have effect as a reference to six months. 20
- (4) Where it appears to the Commission or a licensing authority that a decision under this Act was taken by them in reliance upon false or misleading information, they may do anything that they think expedient for the purpose of cancelling, terminating or varying an effect of the decision (but action under this subsection shall not make unlawful anything done before the action is taken). 25

337 Value of prize

- (1) Regulations prescribing a maximum value of prizes for a purpose of this Act may include provision for determining the value of a prize. 30
- (2) Regulations by virtue of subsection (1) may, in particular –
 - (a) apply (with or without modification) or make provision similar to a provision of section 20 of the Betting and Gaming Duties Act 1981 (c. 63) (expenditure on bingo winnings);
 - (b) confer a discretion on the Secretary of State, on the Gambling Commission or on another person; 35
 - (c) provide for an appeal;
 - (d) confer jurisdiction on a court or tribunal.
- (3) The imposition by or by virtue of this Act of a maximum on the value of a prize does not prevent an arrangement between a person who has won one or more prizes and a person who provides facilities for gambling whereby the prize or prizes are exchanged (whether for money or for one or more articles); provided that – 40
 - (a) the amount of money or the value of the articles for which the prize or prizes are exchanged does not exceed the maximum amount or value 45

- of the prize, or the aggregate maximum amount or value of the prizes, that the person could lawfully have won, and
- (b) the nature of the substituted prize or prizes complies with any requirements of or by virtue of this Act as to the nature of the prize or prizes that the person could lawfully have won. 5

338 Participation fees

- (1) In this Act “participation fee” means an amount paid in respect of entitlement to participate in gambling; and for that purpose –
- (a) it is immaterial –
- (i) how a fee is described, 10
- (ii) whether a fee is payable in money or in money’s worth,
- (iii) when and how a fee is payable,
- (iv) to whom a fee is payable,
- (b) a charge for admission to premises where gambling takes place shall be treated as a participation fee, 15
- (c) a membership subscription is not a participation fee (subject to subsections (2) and (3)), and
- (d) a stake is not a participation fee.
- (2) The Secretary of State may by regulations provide for a membership subscription to be treated as a participation fee in specified circumstances. 20
- (3) For the purposes of section 274, a membership subscription is a participation fee.
- (4) The Secretary of State may make regulations providing, in connection with the operation of a provision of this Act in relation to a participation fee, for the apportionment of an amount which is payable partly in respect of entitlement to participate in gambling and partly in respect of another matter; and that provision may, in particular –
- (a) provide for apportionment by a specified person;
- (b) provide for apportionment in accordance with a specified formula or principle; 30
- (c) refer to the concept of reasonableness.

339 Forfeiture

- (1) A court by or before which a person is convicted of an offence under this Act may make an order for the forfeiture of an article that appears to the court to relate to the offence. 35
- (2) A forfeiture order –
- (a) may include such provision about the treatment of the article forfeited as the court thinks appropriate, and
- (b) subject to any provision made under paragraph (a), shall be treated as requiring any person in possession of the article to surrender it to a constable as soon as is reasonably practicable. 40
- (3) Where –
- (a) a court proposes to make a forfeiture order in respect of an article, and
- (b) a person notifies the court that he has an interest in the article,

the court may not make the order without first giving the person an opportunity to make representations.

- (4) The court which made a forfeiture order may order that the forfeited article be given up to a person who claims to have an interest in it.
- (5) A person commits an offence if he fails to— 5
(a) comply with a forfeiture order, or
(b) co-operate with a step taken for the purpose of giving effect to a forfeiture order.
- (6) A person guilty of an offence under subsection (5) shall be liable on summary conviction to— 10
(a) imprisonment for a term not exceeding 51 weeks,
(b) a fine not exceeding level 5 on the standard scale, or
(c) both.
- (7) In the application of subsection (6) to Scotland the reference to 51 weeks shall have effect as a reference to six months. 15

340 Prosecution by licensing authority

- (1) A licensing authority may institute criminal proceedings in respect of an offence under any of the following provisions of this Act— 20
(a) section 36,
(b) section 179,
(c) section 180,
(d) section 223,
(e) section 236,
(f) section 252,
(g) section 253, 25
(h) section 254,
(i) section 255,
(j) section 256,
(k) section 320,
(l) section 336, 30
(m) paragraph 20 of Schedule 10, and
(n) paragraph 14 of Schedule 12.
- (2) This section is without prejudice to section 222 of the Local Government Act 1972 (c. 70) (power of local authorities to prosecute or defend legal proceedings). 35
- (3) This section shall not apply to an authority in Scotland.

341 Prosecution: time limit

- (1) A magistrates' court may try an information for an offence under this Act provided that the information was laid within the period of twelve months beginning with the date (or last date) on which the offence is alleged to have been committed. 40
- (2) Section 127(1) of the Magistrates' Courts Act 1980 (c. 43) shall not apply to an offence under this Act.

342 Excluded premises

- (1) This Act shall have no effect in relation to anything done on, or in relation to any use of, premises of a kind specified for the purposes of this subsection by order of the Secretary of State.
- (2) This Act shall have no effect in relation to anything done on, or in relation to any use of, premises certified for the purposes of this subsection, on grounds relating to national security, by the Secretary of State or the Attorney General. 5

343 Three-year licensing policy

- (1) A licensing authority shall before each successive period of three years –
- (a) prepare a statement of the principles that they propose to apply in exercising their functions under this Act during that period, and 10
- (b) publish the statement.
- (2) A licensing authority shall –
- (a) review their statement under this section from time to time,
- (b) if they think it necessary in the light of a review, revise the statement, 15
- (c) publish any revision before giving it effect.
- (3) In preparing a statement or revision under this section a licensing authority shall consult –
- (a) either – 20
- (i) in England and Wales, the chief officer of police for the authority’s area, or
- (ii) in Scotland, the chief constable of the police force maintained for the police area comprising that area,
- (b) the fire authority for the authority’s area, 25
- (c) one or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority’s area, and
- (d) one or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority’s functions under this Act. 30
- (4) The Secretary of State may make regulations about –
- (a) the form of statements under this section;
- (b) the procedure to be followed in relation to the preparation, review or revision of statements under this section; 35
- (c) the publication of statements under this section.
- (5) In relation to statements prepared under this section by licensing authorities in Scotland, subsection (4) shall have effect as if the reference to the Secretary of State were a reference to the Scottish Ministers.
- (6) The Secretary of State shall by order appoint a day as the first day of the first period of three years for the purpose of this section. 40
- (7) Where a licensing authority is specified in an order under section 170 they shall ensure that their statement under this section includes the principles that they propose to apply in making determinations under paragraph 5 of Schedule 9.

344 Exchange of information

- (1) A person or body listed in Part 1 of Schedule 6 may provide information to any other person or body so listed for use in the exercise of a function under this Act.
- (2) A person or body listed in Part 1 of Schedule 6, or the Commission, may provide information obtained in the course of the exercise of a function under this Act to Her Majesty’s Commissioners of Customs and Excise for use in the exercise of any function. 5
- (3) Provision of information in reliance on this section may be subject to conditions (whether as to use, storage, disposal or otherwise). 10

345 Power to amend Schedule 6

- (1) The Secretary of State may by order amend Schedule 6 so as to –
 - (a) add an entry to a list (in either Part);
 - (b) remove an entry from a list (in either Part);
 - (c) move an entry from one list to another; 15
 - (d) add, remove or vary a Note.
- (2) In particular, a Note relating to an entry for a person or body situated outside the United Kingdom may provide that the entry has effect only in relation to the law of a Part of the United Kingdom.

General 20

346 Interpretation

- (1) In this Act, except where the context otherwise requires –
 - “adult” means an individual who is not a child or young person,
 - “adult gaming centre” has the meaning given by section 231,
 - “alcohol licence” has the meaning given by section 272, 25
 - “authorised local authority officer” has the meaning given by section 299,
 - “authorised person” has the meaning given by that section,
 - “betting” has the meaning given by sections 9 to 11, 36 and 148,
 - “betting intermediary” has the meaning given by section 13,
 - “bingo” means any version of that game, irrespective of by what name it is described, 30
 - “casino” has the meaning given by section 7,
 - “casino game” has the meaning given by that section,
 - “Category A gaming machine” (or B, C or D) means a gaming machine falling within Category A (or B, C or D) as prescribed under section 230, 35
 - “chief constables of police forces” has the same meaning in relation to England and Wales as in the Police Act 1996 (c. 16),
 - “child” has the meaning given by section 44,
 - “club gaming permit” has the meaning given by section 266,
 - “club machine permit” has the meaning given by section 268, 40
 - “commercial club” has the meaning given by section 262,
 - “the Commission” means the Gambling Commission,
 - “director” –

- (a) has the meaning given by section 741 of the Companies Act 1985 (c. 6), and
- (b) includes a shadow director within the meaning of that section,
- “dog track” means premises which are designed, used or adapted for use for dog-racing, 5
- “draw”, in relation to a lottery, has the meaning given by section 249,
- “EEA State” means a State which is a contracting party to the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 (as it has effect from time to time),
- “enforcement officer” means a person designated or appointed as an enforcement officer under section 298, 10
- “equal chance gaming” has the meaning given by section 8,
- “exempt lottery” has the meaning given by section 252,
- “external lottery manager” has the meaning given by section 251,
- “fair” has the meaning given by section 281, 15
- “family entertainment centre” has the meaning given by section 232,
- “family entertainment centre gaming machine permit” has the meaning given by section 241,
- “football pools” means an arrangement whereby –
- (a) people compete for prizes by forecasting the results of association football games, and 20
- (b) each entry to the competition must forecast the results of at least four games,
- “gambling” has the meaning given by section 3,
- “gambling software” has the meaning given by section 40, 25
- “game of chance” has the meaning given by section 6,
- “gaming” has the meaning given by that section,
- “gaming machine” has the meaning given by section 229,
- “horse-race course” means premises which are designed, used or adapted for use for horse-racing, 30
- “horse-race pool betting” has the meaning given by section 12,
- “large casino” has the meaning given by regulations under section 7(5),
- “licensed family entertainment centre” has the meaning given by section 232,
- “the licensing objectives” has the meaning given by section 1, 35
- “licensing authority” has the meaning given by section 2,
- “lottery” has the meaning given by section 14 (and section 250),
- “lottery manager’s operating licence” has the meaning given by section 96,
- “lottery ticket” has the meaning given by section 247, 40
- “machine” has the meaning given by section 229(4)(a),
- “members’ club” has the meaning given by section 261,
- “miners’ welfare institute” has the meaning given by section 263,
- “the National Lottery” has the meaning given by section 1 of the National Lottery etc. Act 1993 (c. 39)), 45
- “non-commercial betting” has the meaning given by section 297,
- “non-commercial gaming” has the meaning given by section 292,
- “non-commercial society” has the meaning given by section 19,
- “occasional use notice” means a notice given under section 38,

“operating licence” means a licence issued under Part 5,	
“on-premises alcohol licence” has the meaning given by section 272,	
“participant”, in relation to a game of chance, includes a person who discharges an administrative or other function in relation to the game,	
“participation fee” has the meaning given by section 338,	5
“passenger vessel” means a vessel which is carrying or expected to carry at least one passenger,	
“personal licence” means a licence issued under Part 6,	
“pool betting” has the meaning given by section 12,	
“premises” includes any place and, in particular –	10
(a) a vessel, and	
(b) a vehicle,	
“premises licence” means a licence issued under Part 8,	
“private betting” has the meaning given by section 290 and Part 2 of Schedule 15,	15
“private gaming” has the meaning given by section 290 and Part 1 of Schedule 15,	
“private gain” is to be construed in accordance with section 19(3),	
“prize” in relation to gaming (except in the context of a gaming machine) has the meaning given by section 6,	20
“prize” in relation to a gaming machine has the meaning given by section 233,	
“prize” in relation to a lottery has the meaning given by section 14,	
“prize gaming” has the meaning given by section 283,	
“prize gaming permit” has the meaning given by section 284,	25
“proceeds”, in relation to a lottery, has the meaning given by section 248,	
“profits”, in relation to a lottery, has the meaning given by that section,	
“profits”, in relation to non-commercial prize gaming, has the meaning given by section 294,	
“pub gaming machine permit” has the meaning given by section 278,	30
“racecourse” means premises on any part of which a race takes place or is intended to take place,	
“real”, in relation to a game, event or process means non-virtual,	
“relevant offence” has the meaning given by section 124 and Schedule 7,	
“remote communication” has the meaning given by section 4,	35
“remote gambling” has the meaning given by that section,	
“remote gambling equipment” has the meaning given by section 35,	
“remote operating licence” has the meaning given by section 65,	
“rollover”, in relation to a lottery, has the meaning given by section 250,	
“small casino” has the meaning given by regulations under section 7(5),	40
“society” includes a branch or section of a society,	
“stake” means an amount paid or risked in connection with gambling and which either –	
(a) is used in calculating the amount of the winnings or the value of the prize that the person making the stake receives if successful, or	45
(b) is used in calculating the total amount of winnings or value of prizes in respect of the gambling in which the person making the stake participates,	

- “supply” includes –
- (a) sale,
 - (b) lease, and
 - (c) placing on premises with permission or in accordance with a contract or other arrangement, 5
- “temporary use notice” has the meaning given by section 209,
- “track” means a horse-race course, dog track or other premises on any part of which a race or other sporting event takes place or is intended to take place,
- “travelling fair” has the meaning given by section 281, 10
- “vehicle” includes –
- (a) a train, and
 - (b) an aircraft,
- “vessel” includes –
- (a) anything designed or adapted for navigation or other use in, on or over water, and 15
 - (b) anything, or any part of any place, situated in or on water,
- “virtual” has the meaning given by subsection (3) below,
- “winnings”, in relation to a bet, means anything won, whether in money or in money’s worth, and 20
- “young person” has the meaning given by section 44.
- (2) In this Act, except where the context otherwise requires –
- (a) a reference to accepting a bet includes a reference to negotiating a bet,
 - (b) a reference to advertising is to be construed in accordance with section 321, 25
 - (c) a reference to participating in a lottery is to be construed in accordance with section 14,
 - (d) a reference to installing computer software includes a reference to downloading computer software,
 - (e) a reference to paying winnings in relation to a bet includes a reference to providing a prize in money’s worth, 30
 - (f) a reference to postal services does not include a reference to facsimile transmission,
 - (g) a reference to premises includes a reference to part of premises,
 - (h) a reference to promoting a lottery is to be construed in accordance with section 246, 35
 - (i) a reference to providing facilities for gambling is to be construed in accordance with section 5,
 - (j) a reference to publication includes a reference to display, and
 - (k) a reference to the sale, supply or purchase of a lottery ticket is to be construed in accordance with section 247. 40
- (3) For the purposes of this Act a reference to a virtual game, race or other event or process is a reference to –
- (a) images generated by computer so as to resemble all or part of a game, race or other event or process of a kind that is played by or involves actual people, animals or things, 45
 - (b) images generated by computer so as to represent an imaginary game, race or other event or process, or

- (c) any game, race or other event or process the result of which is determined by computer.
- (4) A requirement under this Act to give a notice (or to notify) is a requirement to give notice in writing; and for that purpose –
 - (a) a message sent by facsimile transmission or electronic mail shall be treated as a notice given in writing, and 5
 - (b) a notice sent to a licensee at the address specified for that purpose in the licence shall, unless the contrary is proved, be treated as reaching him within a period within which it could reasonably be expected to reach him in the ordinary course of events. 10
- (5) A reference in this Act to an act which is authorised by a licence or other document does not include a reference to an act which would be authorised by the licence or document but for failure to comply with a term or condition.

347 Crown application

- (1) This Act binds the Crown. 15
- (2) But this Act shall have no effect in relation to anything done on, or in relation to any use of, premises occupied (temporarily or permanently) by Her Majesty's naval forces, military forces or air forces (within the meaning given by section 225(1) of the Army Act 1955 (c. 18)).

348 Regulations, orders and rules

- (1) Regulations or rules under this Act, or an order of the Secretary of State under this Act –
 - (a) may make provision which applies generally or only for specified purposes or in specified cases or circumstances,
 - (b) may make different provision for different purposes, cases or circumstances, and 25
 - (c) may include incidental, consequential or transitional provision.
- (2) A provision of this Act which permits regulations, rules or an order to make provision of a specified kind is without prejudice to the generality of subsection (1). 30
- (3) Regulations or rules under this Act, or an order of the Secretary of State under this Act, shall be made by statutory instrument.
- (4) Regulations under any of the following provisions shall not be made by the Secretary of State unless a draft has been laid before and approved by resolution of each House of Parliament – 35
 - (a) section 4,
 - (b) section 6,
 - (c) section 7,
 - (d) section 14,
 - (e) section 76, 40
 - (f) section 121,
 - (g) section 165,
 - (h) section 166, and
 - (i) section 230.

- (5) Regulations or rules made by the Secretary of State under any other provision of this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) An order of the Secretary of State under this Act shall not be made unless a draft has been laid before and approved by resolution of each House of Parliament (subject to subsection (7)). 5
- (7) Subsection (6) –
- (a) shall not apply to an order under section 343(6) or 345 or under Part 2 of Schedule 7 or Part 2 of Schedule 18, which shall instead be subject to annulment in pursuance of a resolution of either House of Parliament, and 10
- (b) shall not apply to an order under section 351, which shall, if it includes provision by virtue of Part 1 of Schedule 18, instead be subject to annulment in pursuance of a resolution of either House of Parliament.
- (8) Regulations under a provision specified in subsection (4) or under section 280 shall not be made by the Scottish Ministers unless a draft has been laid before and approved by resolution of the Scottish Parliament. 15
- (9) Regulations made by the Scottish Ministers under any other provision of this Act shall be subject to annulment in pursuance of a resolution of the Scottish Parliament. 20

349 Amendments and repeals

- (1) Schedule 16 (minor and consequential amendments) shall have effect.
- (2) An amendment in that Schedule shall have the same extent as the enactment amended (or as the relevant portion of the enactment amended).
- (3) The following shall cease to have effect – 25
- (a) the Gaming Act 1710 (c. 19),
- (b) the Gaming Act 1738 (c. 28),
- (c) the Gaming Act 1835 (c. 41),
- (d) the Gaming Act 1845 (c. 109),
- (e) the Gaming Act 1892 (c. 9), 30
- (f) the Betting, Gaming and Lotteries Act 1963 (c. 2),
- (g) the Gaming Act 1968 (c. 65),
- (h) the Lotteries Act 1975 (c. 58), and
- (i) the Lotteries and Amusements Act 1976 (c. 32).
- (4) The enactments listed in Schedule 17 are hereby repealed to the extent specified. 35
- (5) A repeal in that Schedule shall have the same extent as the provision repealed (subject to the Note to that Schedule).

350 Money

- (1) Expenditure of a Minister of the Crown in connection with this Act shall be paid out of money provided by Parliament. 40
- (2) A sum received by a Minister of the Crown in connection with this Act shall be paid into the Consolidated Fund.

351 Commencement

- (1) The preceding provisions of this Act shall come into force in accordance with provision made by the Secretary of State by order.
- (2) An order under subsection (1) may (without prejudice to the generality of section 348(1)) – 5
 - (a) bring only specified provisions into force;
 - (b) bring different provisions into force at different times;
 - (c) bring a provision into force for a specified purpose only;
 - (d) bring a provision into force at different times for different purposes;
 - (e) in particular, bring Part 2 into force only for specified preliminary purposes relating to the establishment of the Commission (which may include the assumption of functions of the Gaming Board for Great Britain pending the commencement of repeals made by this Act); 10
 - (f) in particular, bring a provision of this Act into force for the purpose of enabling an advance application for a licence or permit to be made, considered and determined; 15
 - (g) in particular, bring an offence or other provision of this Act into force only in relation to gambling of a specified class or in specified circumstances.
- (3) Schedule 18 (transitional) shall have effect. 20

352 Extent

- (1) The following provisions of this Act extend to England and Wales, Scotland and Northern Ireland – 25
 - (a) section 42, section 325 and
 - (b) section 334 (and the related entry in Schedule 17).
- (2) The other provisions of this Act shall extend only to –
 - (a) England and Wales, and
 - (b) Scotland.
- (3) This section is subject to section 349.

353 Short title 30

This Act may be cited as the Gambling Act 2005.

SCHEDULES

SCHEDULE 1

Section 11

BETTING: PRIZE COMPETITIONS: DEFINITION OF PAYMENT TO ENTER

Introduction

- 1 This Schedule makes provision about the circumstances in which a person is to be or not to be treated for the purposes of section 11(1)(b) as being required to pay to participate in an arrangement. 5

Meaning of payment

- 2 For the purposes of section 11 and this Schedule a reference to paying includes a reference to— 10
- (a) paying money,
 - (b) transferring money's worth, and
 - (c) paying for goods or services at a price or rate which reflects the opportunity to participate in an arrangement under which a participant may win a prize. 15
- 3 It is immaterial for the purposes of section 11 and this Schedule—
- (a) to whom a payment is made, and
 - (b) who receives benefit from a payment.
- 4 It is also immaterial for the purposes of section 11 and this Schedule whether a person knows when he makes a payment that he thereby participates in an arrangement as a result of which he may win a prize. 20

Stamps, telephone calls, &c.

- 5 (1) For the purposes of section 11 and this Schedule a reference to paying does not include a reference to incurring the expense, at a normal rate, of— 25
- (a) sending a letter by ordinary post,
 - (b) making a telephone call, or
 - (c) using any other method of communication.
- (2) For the purpose of sub-paragraph (1)— 30
- (a) a “normal rate” is a rate which does not reflect the opportunity to participate in an arrangement under which a person may win a prize, and
 - (b) ordinary post means ordinary first-class or second-class post (without special arrangements for delivery).

Payment to discover whether prize won

- 6 For the purposes of section 11 and this Schedule a requirement to pay in order to discover whether a prize has been won under an arrangement shall be treated as a requirement to pay to participate in the arrangement.

Payment to claim prize

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- 7 For the purposes of section 11 and this Schedule a requirement to pay in order to take possession of a prize which a person has or may have won under an arrangement shall be treated as a requirement to pay to participate in the arrangement.

Choice of free entry

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- 8 (1) For the purposes of section 11 and this Schedule an arrangement shall not be treated as requiring a person to pay to participate if under the arrangement—
- (a) each person who is eligible to participate has a choice whether to participate by paying or by sending a communication, 15
 - (b) the communication mentioned in paragraph (a) may be—
 - (i) a letter sent by ordinary post, or
 - (ii) another method of communication which is neither more expensive nor less convenient than participating by paying,
 - (c) the choice is publicised in such a way as to be likely to come to the attention of each person who proposes to participate, and 20
 - (d) the system for allocating prizes does not differentiate between those who participate by paying and those who participate by sending a communication.
- (2) In this paragraph “ordinary post” has the meaning given by paragraph 5(2)(b). 25

Power to make regulations

- 9 The Secretary of State may make regulations providing that an activity of a specified kind or performed in specified circumstances is to be or not to be treated for the purposes of section 11 as paying to participate in an arrangement. 30

SCHEDULE 2

Section 14

LOTTERIES: DEFINITION OF PAYMENT TO ENTER

Introduction

- 1 This Schedule makes provision about the circumstances in which an arrangement is to be or not to be treated for the purposes of section 14 as requiring persons to pay in order to participate in an arrangement. 35

Meaning of payment

- 2 For the purposes of section 14 and this Schedule a reference to paying includes a reference to –
- (a) paying money,
 - (b) transferring money’s worth, and 5
 - (c) paying for goods or services at a price or rate which reflects the opportunity to participate in an arrangement.
- 3 It is immaterial for the purposes of section 14 and this Schedule –
- (a) to whom a payment is made, and
 - (b) who receives benefit from a payment. 10
- 4 It is also immaterial for the purposes of section 14 and this Schedule whether a person knows when he makes a payment that he thereby participates in an arrangement.

Stamps, telephone calls, &c.

- 5 (1) For the purposes of section 14 and this Schedule a reference to paying does not include a reference to incurring the expense, at a normal rate, of –
- (a) sending a letter by ordinary post,
 - (b) making a telephone call, or
 - (c) using any other method of communication. 15
- (2) For the purpose of sub-paragraph (1) –
- (a) a “normal rate” is a rate which does not reflect the opportunity to enter a lottery, and
 - (b) ordinary post means ordinary first-class or second-class post (without special arrangements for delivery). 20

Payment to discover whether prize won 25

- 6 For the purposes of section 14 and this Schedule a requirement to pay in order to discover whether a prize has been won under an arrangement shall be treated as a requirement to pay in order to participate in the arrangement.

Payment to claim prize

- 7 For the purposes of section 14 and this Schedule a requirement to pay in order to take possession of a prize which has or may have been allocated to a person under an arrangement shall be treated as a requirement to pay in order to participate in the arrangement. 30

Choice of free entry

- 8 (1) For the purposes of section 14 and this Schedule an arrangement shall not be treated as requiring persons to pay in order to participate if under the arrangement –
- (a) each individual who is eligible to participate has a choice whether to participate by paying or by sending a communication,
 - (b) the communication mentioned in paragraph (a) may be – 40
 - (i) a letter sent by ordinary post, or

- (ii) another method of communication which is neither more expensive nor less convenient than entering the lottery by paying,
 - (c) the choice is publicised in such a way as to be likely to come to the attention of each individual who proposes to participate, and 5
 - (d) the system for allocating prizes does not differentiate between those who participate by paying and those who participate by sending a communication.
- (2) In this paragraph “ordinary post” has the meaning given by paragraph 5(2)(b). 10

Power to make regulations

- 9 Regulations under section 14(7) may, in particular, provide that an activity of a specified kind or performed in specified circumstances is to be or not to be treated as paying to enter a lottery.

SCHEDULE 3

Section 15 15

AMENDMENT OF NATIONAL LOTTERY ETC. ACT 1993 (C. 39)

Annual levy

- 1 After section 10B of the National Lottery etc. Act 1993 (financial penalties: appeal) insert –
- “10C Annual levy 20**
- (1) The Secretary of State may make regulations requiring holders of licences under section 5 or 6 to pay an annual levy to the Gambling Commission.
 - (2) The regulations shall, in particular, make provision for –
 - (a) timing of payment of the levy, and 25
 - (b) the amount of the levy.
 - (3) The regulations may, in particular, make provision –
 - (a) determining the amount of the levy by reference to a percentage of specified receipts of the holder of a licence under section 5 or 6, 30
 - (b) determining the amount of the levy by reference to a percentage of specified profits of the holder of a licence under section 5 or 6,
 - (c) providing for the determination of the amount of the levy according to a specified formula, or 35
 - (d) providing for the determination of the amount of the levy in some other way.
 - (4) Any sum due by way of levy by virtue of this section shall be treated for the purposes of this Act as if its payment were a condition of the licence under section 5 or 6. 40

- (5) The Gambling Commission shall, with the consent of the Treasury and of the Secretary of State, expend money received by way of levy for purposes related to, or by providing financial assistance for projects related to –
- (a) addiction to gambling, 5
 - (b) other forms of harm or exploitation associated with gambling, or
 - (c) any of the licensing objectives for the purposes of the Gambling Act 2005.
- (6) In subsection (5) the reference to financial assistance is a reference to grants, loans and any other form of financial assistance, which may be made or given on terms or conditions (which may include terms and conditions as to repayment with or without interest). 10
- (7) The Secretary of State may make regulations under this section only if – 15
- (a) he has made regulations under the Gambling Act 2005 requiring holders of operating licences to pay an annual levy to the Gambling Commission, and
 - (b) he has consulted the National Lottery Commission.
- (8) The Gambling Commission shall consult the National Lottery Commission before incurring expenditure under subsection (5).” 20

Consultation with Gambling Commission

- 2 After section 4 of the National Lottery etc. Act 1993 (c. 39) (overriding duties) insert –

“4A Consultation with Gambling Commission” 25

- (1) If in the course of the exercise of its functions the National Lottery Commission becomes aware of a matter about which the Gambling Commission is likely to have an opinion, the National Lottery Commission shall consult the Gambling Commission.
- (2) The National Lottery Commission shall comply with any direction of the Secretary of State (which may be general or specific) to consult the Gambling Commission.” 30

Definition of “lottery”

- 3 In section 20 of the National Lottery etc. Act 1993 (interpretation) after the definition of “contravention” insert – 35
- “lottery” has the same meaning as in the Gambling Act 2005;”.

SCHEDULE 4

Section 20

THE GAMBLING COMMISSION

Constitution

- 1 The Gambling Commission shall consist of a chairman and other commissioners appointed by the Secretary of State. 5

Tenure

- 2 (1) A commissioner shall hold and vacate office in accordance with the terms of his appointment (subject to this Schedule).
(2) A commissioner may resign by notice in writing to the Secretary of State.
(3) If the Secretary of State thinks that a commissioner is unable, unfit or unwilling to perform his functions, the Secretary of State may dismiss the commissioner. 10
- 3 The chairman –
(a) shall hold and vacate office in accordance with the terms of his appointment (subject to this Schedule), 15
(b) may resign by notice in writing to the Secretary of State, and
(c) shall cease to be chairman if he ceases to be a commissioner.
- 4 The Secretary of State may not appoint a person as commissioner –
(a) for a period of more than five years, or
(b) for periods (whether or not consecutive) exceeding ten years in aggregate. 20

Staff

- 5 (1) The Commission may, with the Secretary of State’s consent as to terms and conditions of employment, appoint a chief executive.
(2) A person – 25
(a) may hold appointment both as the chief executive and as a commissioner, but
(b) may not hold appointment both as the chief executive and as the chairman.
(3) Where a person holds appointment both as the chief executive and as a commissioner, if he ceases to be the chief executive he shall cease to be a commissioner. 30
- 6 The Commission may, with the Secretary of State’s consent as to terms and conditions of employment, appoint other staff.

Proceedings

- 7 The Commission shall – 35
(a) determine arrangements for the conduct of its proceedings (which may, in particular, include arrangements for a quorum), and
(b) publish those arrangements.

- 8 (1) The Commission may delegate a function to –
- (a) a commissioner,
 - (b) a committee consisting of commissioners, or
 - (c) an employee of the Commission.
- (2) Sub-paragraph (1) applies to any function of the Commission including, in particular –
- (a) a discretionary function;
 - (b) the function of conducting a review;
 - (c) the function of determining whether to revoke a licence or of determining whether to impose a requirement to pay a penalty.

Money

- 9 The Commission may, with the consent of the Secretary of State, pay to or in respect of a commissioner or employee sums by way of or in respect of –
- (a) remuneration;
 - (b) allowances;
 - (c) expenses;
 - (d) pension;
 - (e) gratuity.
- 10 The Secretary of State may make payments to the Commission for the purpose of enabling the Commission to meet such of its expenses as cannot be met out of fees paid to the Commission under this Act.
- 11 The Commission may, with the consent of the Secretary of State, borrow money.
- 12 The Commission may pay money into the Consolidated Fund.
- 13 The Commission shall keep accounting records in such form as the Secretary of State may direct.
- 14 (1) The Commission shall prepare a statement of accounts for each financial year in such form as the Secretary of State may direct.
- (2) The Commission shall send a copy of a statement of accounts under sub-paragraph (1) to –
- (a) the Secretary of State, and
 - (b) the Comptroller and Auditor General.
- (3) The Commission must comply with sub-paragraph (2) within such period, beginning with the end of the financial year to which the accounts relate, as the Secretary of State may specify.
- (4) The Comptroller and Auditor General shall –
- (a) examine a statement sent to him under sub-paragraph (2),
 - (b) report on it, and
 - (c) lay a copy of his report before Parliament.
- 15 (1) The financial year of the Commission shall be the period of 12 months ending with 31st March.
- (2) But the first financial year of the Commission shall be the period –
- (a) beginning with the commencement of section 20, and

- (b) ending with the following 31st March.

Annual report

- 16 (1) As soon as is reasonably practicable after the end of each financial year the Commission shall send to the Secretary of State a report about the activities of the Commission during the year. 5
- (2) Where the Secretary of State receives a report under sub-paragraph (1) –
- (a) he shall lay a copy before Parliament, and
- (b) he may arrange for the report to be published.

Status

- 17 (1) The Commission shall not be regarded as the servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown. 10
- (2) Property of the Commission shall not be regarded as property of or held on behalf of the Crown.
- (3) Membership of or employment by the Commission is not employment in the civil service of the State. 15

Consent

- 18 Consent given by the Secretary of State for the purposes of this Schedule may be general or specific.

SCHEDULE 5

Section 21

TRANSFER FROM GAMING BOARD TO GAMBLING COMMISSION: SUPPLEMENTARY PROVISION 20

- 1 In this Schedule –
“the Board” means the Gaming Board for Great Britain,
“commencement” means the coming into force of section 21, and
“the Commission” means the Gambling Commission. 25
- 2 Anything done by or in relation to the Board which has effect immediately before commencement shall, so far as necessary for continuing its effect after commencement, have effect as if done by or in relation to the Commission.
- 3 Anything (including any legal proceedings) which immediately before commencement is in the process of being done by or in relation to the Board may be continued by or in relation to the Commission. 30
- 4 So far as necessary or appropriate in consequence of section 21, on and after commencement a reference to the Board in an enactment, instrument or other document shall be treated as a reference to the Commission.
- 5 (1) Section 21(2) shall operate in relation to rights and liabilities – 35
- (a) whether or not they would otherwise be capable of being transferred by the Board, and
- (b) without any instrument or other formality being required.

- (2) In so far as section 21(2) transfers to the Commission liabilities under contracts of employment nothing in that section or this Schedule shall affect the operation of—
- (a) the Transfer of Undertakings (Protection of Employment) Regulations 1981 (S.I. 1981/1794), or
 - (b) regulations under section 38 of the Employment Relations Act 1999 (c. 26) (replication of the TUPE regulations).

SCHEDULE 6

Sections 29 and 344

EXCHANGE OF INFORMATION: PERSONS AND BODIES

PART 1 10

PERSONS AND BODIES WITH FUNCTIONS UNDER THIS ACT

A constable or police authority	
An enforcement officer	
A licensing authority	
Her Majesty's Commissioners of Customs and Excise	15
The Gambling Appeal Tribunal	
The National Lottery Commission	
The Secretary of State	
The Scottish Ministers	

PART 2 20

OTHER PERSONS AND BODIES

The Director and staff of the Assets Recovery Agency	
The Jockey Club and any company all the shares in which are owned by the Jockey Club	
The Occupational Pensions Regulatory Authority	25
The Office of Fair Trading	
The Serious Fraud Office	

PART 3

NOTES

- | | | |
|---|---|----|
| 1 | Where a person or body listed in this Schedule is by virtue of an enactment restricted in the use that may be made of information provided to him or it by another person or body, nothing in section 29 or 344 overrides that restriction – | 5 |
| | (a) in relation to information provided to the person or body by the Commission, or | |
| | (b) so as to permit the person or body to disclose to the Commission information provided to the person or body by another. | 10 |
| 2 | Information provided to a person or body by Her Majesty’s Commissioners of Customs and Excise in reliance on a provision of this Act may not be provided by that person or body to any other person or body without the consent of the Commissioners. | |

SCHEDULE 7

Section 124

15

RELEVANT OFFENCES

PART 1

THE OFFENCES

Gambling offences

- | | | |
|---|--|----|
| 1 | An offence under – | 20 |
| | (a) this Act, | |
| | (b) the Betting, Gaming and Lotteries Act 1963 (c. 2), | |
| | (c) the Gaming Act 1968 (c. 65), | |
| | (d) the Lotteries and Amusements Act 1976 (c. 32), | |
| | (e) the National Lottery etc. Act 1993 (c. 39), or | 25 |
| | (f) the National Lottery Act 1998 (c. 22). | |

Theft, &c.

- | | | |
|---|--|----|
| 2 | An offence under any of the following provisions of the Theft Act 1968 (c. 60) – | |
| | (a) section 1 (theft), | 30 |
| | (b) section 8 (robbery), | |
| | (c) section 9 (burglary), | |
| | (d) section 10 (aggravated burglary), | |
| | (e) section 11 (theft from exhibition, &c.), | |
| | (f) section 12A (aggravated vehicle-taking), | 35 |
| | (g) section 13 (abstracting electricity), | |
| | (h) section 15 (obtaining property by deception), | |
| | (i) section 15A (obtaining money transfer by deception), | |
| | (j) section 16 (obtaining pecuniary advantage by deception), | |

	(k) section 17 (false accounting),	
	(l) section 19 (false statement by director, &c.),	
	(m) section 20 (suppression of document, &c.),	
	(n) section 21 (blackmail),	
	(o) section 22 (handling stolen goods),	5
	(p) section 24A (retaining wrong credit), and	
	(q) section 25 (going equipped for stealing, &c.).	
3	An offence under section 1 or 2 of the Theft Act 1978 (c. 31) (obtaining services, or evading liability, by deception).	
4	An offence under section 170 or 170B of the Customs and Excise Management Act 1979 (c. 2) (evasion of duty).	10
5	An offence under section 58(1) of the Civic Government (Scotland) Act 1982 (c. 45) (convicted thief in possession).	
6	Both in England and Wales and in Scotland, the offence at common law of conspiracy to defraud.	15
7	In Scotland the offences at common law of –	
	(a) theft,	
	(b) robbery,	
	(c) theft by housebreaking,	
	(d) fraud,	20
	(e) extortion, and	
	(f) reset.	
<i>Miscellaneous</i>		
8	A sexual offence within the meaning of section 161(2) of the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6).	25
9	A violent offence within the meaning of section 161(3) of that Act.	
10	An offence under –	
	(a) the Firearms Act 1968 (c. 27), or	
	(b) the Firearms (Amendment) Act 1988 (c. 45).	
11	An offence under any of the following provisions of the Misuse of Drugs Act 1971 (c. 38) –	30
	(a) section 4(2) (production),	
	(b) section 4(3) (supply),	
	(c) section 5(3) (possession with intent to supply), and	
	(d) section 8 (permitting activity on premises).	35
12	An offence under the Forgery and Counterfeiting Act 1981 (c. 45), except for sections 18 and 19 (reproduction and imitation notes and coins).	
13	An offence under section 3 of the Private Security Industry Act 2001 (c. 12) (unlicensed activity).	
14	An offence under section 70 of the Army Act 1955 (c. 18) in so far as it relates to an offence listed elsewhere in this Schedule.	40

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- | | | |
|----|--|----|
| 15 | An offence under section 70 of the Air Force Act 1955 (c. 19) in so far as it relates to an offence listed elsewhere in this Schedule. | |
| 16 | An offence under section 42 of the Naval Discipline Act 1957 (c. 53) in so far as it relates to an offence listed elsewhere in this Schedule. | |
| 17 | An offence under section 52 or 52A of the Civic Government (Scotland) Act 1982 (c. 45) (offences relating to indecent photographs of children). | 5 |
| 18 | An offence under any of the following provisions of the Criminal Law (Consolidation) (Scotland) Act 1995 (c. 39) – | |
| | (a) section 1 (incest), | |
| | (b) section 2 (intercourse with a stepchild), | 10 |
| | (c) section 3 (intercourse with child under 16 by person in position of trust), | |
| | (d) section 5 (unlawful intercourse with a girl under 16), | |
| | (e) section 6 (indecent behaviour towards girl between 12 and 16), | |
| | (f) section 8 (detention of woman in brothel or other premises), | 15 |
| | (g) section 10 (person having parental responsibilities causing or encouraging sexual activity in relation to a girl under 16), and | |
| | (h) section 13(5) (homosexual offences). | |
| 19 | In Scotland, the offences at common law of – | |
| | (a) rape, | 20 |
| | (b) clandestine injury to women, | |
| | (c) abduction of a woman or girl with intent to rape or ravish, | |
| | (d) assault with intent to rape or ravish, | |
| | (e) indecent assault, | |
| | (f) lewd, indecent or libidinous behaviour or practices, | 25 |
| | (g) shameless indecency, | |
| | (h) sodomy, | |
| | (i) murder, | |
| | (j) culpable homicide, and | |
| | (k) assault. | 30 |
| 20 | In Scotland, the offence at common law of uttering and fraud. | |
| 21 | An inchoate offence relating to an offence listed elsewhere in this Schedule. | |
| 22 | A reference in this Part of this Schedule to an offence under an Act or a provision of an Act includes a reference to an offence under subordinate legislation made under that Act or provision. | 35 |

PART 2

POWER TO AMEND PART 1

- | | | |
|----|--|----|
| 23 | The Secretary of State may by order amend Part 1 of this Schedule so as to – | |
| | (a) add an entry, | |
| | (b) vary an entry, or | 40 |
| | (c) remove an entry. | |

SCHEDULE 8

Section 138

GAMBLING APPEALS TRIBUNAL

President, deputy and members

- | | | |
|---|--|----|
| 1 | (1) The Lord Chancellor shall appoint— | |
| | (a) a President of the Tribunal, and | 5 |
| | (b) other members of the Tribunal. | |
| | (2) The Lord Chancellor may appoint a member of the Tribunal as its deputy President; and the deputy President— | |
| | (a) may act for the President when he is unable to act or unavailable, and | |
| | (b) shall perform such other functions as the President may delegate or assign to him. | 10 |
| 2 | A person may be appointed under paragraph 1 only if— | |
| | (a) he has a seven year general qualification within the meaning of section 71 of the Courts and Legal Services Act 1990 (c. 41), or | |
| | (b) he is an advocate or solicitor in Scotland of at least seven years' standing. | 15 |

Tenure

- | | | |
|---|--|----|
| 3 | (1) A person appointed under paragraph 1 shall hold and vacate office in accordance with the terms of his appointment (subject to this paragraph). | |
| | (2) A person appointed under paragraph 1 may resign by notice in writing to the Lord Chancellor. | 20 |
| | (3) The Lord Chancellor may dismiss a person appointed under paragraph 1— | |
| | (a) on the grounds that the person is unable or unwilling to perform his functions, or | |
| | (b) on the grounds of misbehaviour. | 25 |

Staff

- | | | |
|---|---|--|
| 4 | The Lord Chancellor may appoint staff for the Tribunal. | |
|---|---|--|

Money

- | | | |
|---|--|----|
| 5 | The Lord Chancellor may pay sums to or in respect of a person appointed under paragraph 1 or 4 by way of or in respect of— | 30 |
| | (a) remuneration; | |
| | (b) expenses; | |
| | (c) allowances. | |
| 6 | The Lord Chancellor may incur expenditure in respect of the Tribunal. | |
| 7 | Sums received by way of fees under section 145 shall be paid into the Consolidated Fund. | 35 |

Sittings

- | | | |
|---|-------------------|--|
| 8 | (1) The Tribunal— | |
|---|-------------------|--|

- (a) shall sit at such times and in such places as the President may direct in accordance with general arrangements made by the Lord Chancellor, and
 - (b) may sit in more than one place at a time.
- (2) Rules made by the Lord Chancellor under section 144 shall, in particular, make provision for determining whether a case shall be heard by the Tribunal sitting –
 - (a) in England or Wales, or
 - (b) in Scotland.
- 9 (1) At each sitting the Tribunal may consist of –
 - (a) the President,
 - (b) a member, or
 - (c) the President sitting with two other members.
- (2) The constitution of the Tribunal at each sitting shall be determined –
 - (a) by the President, and
 - (b) in accordance with general arrangements made by the Lord Chancellor.
- (3) The arrangements may, in particular, include provision –
 - (a) for a three-member tribunal to continue with one or two members in specified circumstances;
 - (b) for the President to have a casting vote if sitting with one other member by virtue of paragraph (a).
- 10 The Lord Chancellor –
 - (a) shall consult the President before making arrangements under paragraph 8(a) or 9(2)(b), and
 - (b) shall publish the arrangements.

Procedure

- 11 Decisions of the Tribunal may be taken by majority vote.
- 12 The President may, subject to rules under section 144, give directions about the practice and procedure of the Tribunal.
- 13 Rules made by the Lord Chancellor under section 144 may, in particular, make provision –
 - (a) about the manner in which appeals are to be instituted;
 - (b) about the time in which appeals are to be heard;
 - (c) for the President or a member of the Tribunal to determine an interlocutory or ancillary matter;
 - (d) for the President or a member of the Tribunal to give directions –
 - (i) requiring parties or witnesses to take specified steps in relation to proceedings, and
 - (ii) as to how and when those steps are to be taken,
 - (e) about disclosure;
 - (f) for joining the Commission to proceedings;
 - (g) for the suspension by the Tribunal of decisions of the Commission (whether or not they have already taken effect);

- (h) enabling the Tribunal to require persons to attend proceedings for the purpose of giving evidence or producing documents;
- (i) enabling the Tribunal to administer oaths to witnesses;
- (j) about the admission of members of the public to proceedings;
- (k) about representation of parties; 5
- (l) about withdrawal of proceedings;
- (m) about the recording and promulgation of decisions;
- (n) about the award of costs or expenses (which may, in particular, include an award against the Commission or another party joined in accordance with the rules); 10
- (o) enabling the Tribunal to vary or revoke a decision, on grounds specified in the rules and within such period as the rules may specify.

Council on Tribunals

- 14 In Part I of Schedule 1 to the Tribunals and Inquiries Act 1992 (c. 53) (tribunals under general supervision of Council) the following shall be inserted before paragraph 22— 15

“Gambling appeals	21C. The Gambling Appeals Tribunal established by section 138 of the Gambling Act 2005.”	20
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SCHEDULE 9

Section 173

APPLICATIONS FOR CASINO PREMISES LICENCES

Introduction

- 1 (1) This Schedule applies to an application for a casino premises licence of a kind in respect of which a limit under section 173 has effect. 25
- (2) An application for the variation or transfer of a premises licence is not to be treated for the purposes of this Schedule as an application for a premises licence (despite sections 181(3) and 182(2)).

Competition for licences

30

- 2 (1) Before considering an application to which this Schedule applies a licensing authority shall comply with regulations of the Secretary of State about inviting competing applications.
- (2) The regulations shall, in particular, make provision— 35
- (a) about the publication of invitations (including provision as to the manner and timing of publication and the matters to be published), and
 - (b) about the timing of responses.

Two-stage consideration

- 3 Paragraph 4 applies where (whether or not as a result of the competition provided for by paragraph 2) –
- (a) a number of applications for a casino premises licence are made to a licensing authority (“the competing applications”), and 5
 - (b) as a result of section 173 and the order under it the authority are able to grant one or more, but not all, of the competing applications.
- 4 (1) The licensing authority shall first consider in respect of each application whether they would grant it under section 161 if section 173 did not apply.
- (2) For that purpose – 10
- (a) the authority shall not have regard to whether any of the other competing applications is more deserving of being granted,
 - (b) subject to paragraph (a), each competing applicant is an interested party in relation to each of the other competing applications, and
 - (c) Part 8 shall apply, but with the substitution for a reference to the grant of an application in sections 161(1)(a) and 200(2) of a reference to a provisional decision to grant an application subject to the provisions of paragraph 5 below. 15
- 5 (1) This paragraph applies if a licensing authority determine under paragraph 4 that they would grant a number of competing applications greater than the number which they can grant as a result of section 173 and the order under it. 20
- (2) The authority shall then determine which of those applications to grant under section 161(1)(a).
- (3) For that purpose the authority – 25
- (a) shall determine which of the competing applications would, in the authority’s opinion, be likely if granted to result in the greatest benefit to the authority’s area,
 - (b) may enter into a written agreement with an applicant, whether as to the provision of services in respect of the authority’s area or otherwise, 30
 - (c) may determine to attach conditions under section 167 to any licence issued so as to give effect to an agreement entered into under paragraph (b), and
 - (d) may have regard to the effect of an agreement entered into under paragraph (b) in making the determination specified in paragraph (a). 35
- (4) Having determined to grant one or more applications under sub-paragraph (2) the authority shall – 40
- (a) grant that application or those applications under section 161(1)(a), and
 - (b) reject the other competing applications under section 161(1)(b).
- (5) The list in section 162(1)(a) shall be treated as including any competing applicant whose application the authority decided provisionally to grant under paragraph 4. 45
- 6 (1) The Secretary of State may issue a code of practice about –

- (a) the procedure to be followed in making the determinations required by paragraphs 4 and 5, and
 - (b) matters to which a licensing authority should have regard in making those determinations.
- (2) A licensing authority shall comply with a code of practice under sub-paragraph (1). 5
- 7 (1) Where a licensing authority issue a casino premises licence following a determination to grant an application in accordance with paragraph 5, a condition attached to the licence under section 167 may, in particular, give effect to any agreement entered into under paragraph 5(3)(b) above. 10
- (2) In that case –
- (a) the condition shall refer to the agreement,
 - (b) a copy of the agreement shall be attached to the licence, and
 - (c) a variation of the agreement shall have effect only if accompanied by variation of the condition under section 181. 15

Provisional statements

- 8 A reference in this Schedule to an application for a casino premises licence includes a reference to an application for a provisional statement where this Schedule would apply to an application for a premises licence made in reliance on the provisional statement. 20
- 9 (1) This paragraph applies where the process described in paragraphs 3 to 5 results in the issue of a provisional statement.
- (2) Paragraphs 2 to 5 shall not apply by reason only of the fact that an application for a casino premises licence is made –
- (a) in reliance on the provisional statement, and 25
 - (b) while it has effect.
- (3) The licensing authority may provide in the provisional statement for it to cease to have effect at the end of a specified period.
- (4) A licensing authority may extend a period specified under sub-paragraph (3) on the application of the person to whom the provisional statement is issued; and – 30
- (a) the Secretary of State may by regulations provide for the procedure to be followed in relation to an application under this subsection, and
 - (b) sections 200 to 203 shall apply but – 35
 - (i) with the omission of section 200(2)(a),
 - (ii) as if section 202(1) referred not to a determination or other action under this Part but to a provision included in a provisional statement under sub-paragraph (3) above, and
 - (iii) with any other necessary modifications.

SCHEDULE 10

Section 241

FAMILY ENTERTAINMENT CENTRE GAMING MACHINE PERMITS

Interpretation

- 1 In this Schedule –
- “holder”, in relation to a permit, means the person to whom the permit is issued, 5
 - “the licensing authority” –
 - (a) in relation to an application, means the licensing authority to whom the application is made, and
 - (b) in relation to a permit, means the licensing authority who issue it, 10
 - “permit” means a family entertainment centre gaming machine permit,
 - “the premises”, in relation to an application or permit, means the premises in respect of which the permit is sought or issued, and
 - “prescribed” means prescribed by regulations made by the Secretary of State except that in paragraph 5(d) it means, where the application is made to a licensing authority in Scotland, prescribed by regulations made by the Scottish Ministers. 15

Making of application

- 2 (1) An application for a permit may be made only by a person who – 20
- (a) occupies or proposes to occupy the premises, and
 - (b) proposes to use the premises as an unlicensed family entertainment centre.
- (2) If the applicant for a permit is an individual, he must be an adult.
- 3 An application for a permit may not be made if a premises licence has effect in respect of the premises. 25
- 4 An application for a permit must be made to a licensing authority in whose area the premises are wholly or partly situated.
- 5 An application for a permit must –
- (a) be made in such form and manner as the licensing authority may direct, 30
 - (b) specify the premises in respect of which the permit is sought,
 - (c) contain or be accompanied by such other information or documents as the licensing authority may direct, and
 - (d) be accompanied by the prescribed fee. 35

Consideration of application

- 6 Section 152 shall have effect in relation to the functions of a licensing authority under this Schedule as it has effect in relation to functions of a licensing authority under Part 8.
- 7 (1) A licensing authority may prepare a statement of principles that they propose to apply in exercising their functions under this Schedule. 40

- (2) A statement under sub-paragraph (1) may, in particular, specify matters that the licensing authority proposes to consider in determining the suitability of an applicant for a permit.
- (3) In exercising their functions under this Schedule a licensing authority –
- (a) need not (but may) have regard to the licensing objectives, and 5
 - (b) shall have regard to any relevant guidance issued by the Commission under section 25.

Determination of application

- 8 (1) On considering an application for a permit a licensing authority may –
- (a) grant it, or 10
 - (b) refuse it.
- (2) A licensing authority may not attach conditions to a permit.
- (3) As soon as is reasonably practicable after granting an application a licensing authority shall issue a permit to the applicant.
- (4) As soon as is reasonably practicable after refusing an application a licensing authority shall notify the applicant of – 15
- (a) the refusal, and
 - (b) the reasons for it.
- 9 A licensing authority may grant an application for a permit only if they –
- (a) are satisfied that the applicant intends to use the premises as an unlicensed family entertainment centre, and 20
 - (b) have consulted the chief officer of police for a police area in which the premises are wholly or partly situated.
- 10 (1) A licensing authority may not refuse an application unless they have – 25
- (a) notified the applicant of their intention to refuse the application and of their reasons, and
 - (b) given the applicant an opportunity to make representations.
- (2) A licensing authority may satisfy sub-paragraph (1)(b) by giving the applicant an opportunity to make – 30
- (a) oral representations,
 - (b) written representations, or
 - (c) both.

Form of permit

- 11 (1) A permit must be in the prescribed form and must specify – 35
- (a) the person to whom it is issued,
 - (b) the premises, and
 - (c) the date on which it takes effect.
- (2) If the person to whom a permit is issued changes his name or wishes to be known by another name – 40
- (a) he may send the permit to the licensing authority with –
 - (i) the prescribed fee, and
 - (ii) a request that a new name be substituted for the old name, and

- (b) the licensing authority shall comply with the request and return the permit to the holder.

Duration

- 12 A permit shall cease to have effect at the end of the period of ten years beginning with the date specified under paragraph 11(1)(c) unless – 5
- (a) it ceases to have effect before that time in accordance with a provision of this Schedule, or
 - (b) it is renewed in accordance with paragraph 18.
- 13 (1) A permit shall lapse if the holder ceases to occupy the premises specified under paragraph 11(1)(b). 10
- (2) A permit shall not take effect if on the date specified under paragraph 11(1)(c) the person to whom the permit is issued is not an occupier of the premises specified under paragraph 11(1)(b).
- 14 A permit shall lapse if the licensing authority notify the holder that the premises are not being used as a family entertainment centre. 15
- 15 (1) A permit held by an individual shall lapse if –
- (a) he dies,
 - (b) he becomes, in the opinion of the licensing authority as notified to him, incapable of carrying on the activities authorised by the permit by reason of mental or physical incapacity, 20
 - (c) he becomes bankrupt (within the meaning of section 381 of the Insolvency Act 1986 (c. 45)), or
 - (d) sequestration of his estate is awarded under section 12(1) of the Bankruptcy (Scotland) Act 1985 (c. 66).
- (2) In any other case a permit shall lapse if the holder – 25
- (a) ceases to exist, or
 - (b) goes into liquidation (within the meaning of section 247(2) of the Insolvency Act 1986).
- (3) During the period of six months beginning with the date on which a permit lapses under this paragraph the following may rely on it as if it had effect and were issued to them – 30
- (a) the personal representatives of the holder (in the case of an individual holder who dies),
 - (b) the trustee of the bankrupt’s estate (in the case of an individual holder who becomes bankrupt), and 35
 - (c) the liquidator of the company (in the case of a company holder that goes into liquidation).
- 16 A permit shall cease to have effect if the holder gives to the licensing authority –
- (a) notice of surrender, and 40
 - (b) either –
 - (i) the permit, or
 - (ii) a statement explaining why it is not reasonably practicable to produce the permit.

- 17 (1) Where the holder of a permit is convicted of a relevant offence the court by or before which he is convicted may order forfeiture of the permit.
- (2) Forfeiture under this paragraph shall be on such terms (which may include terms as to suspension) as may be specified by –
- (a) the court which orders forfeiture, 5
 - (b) a court to which an appeal against the conviction, or against any order made on the conviction, has been or could be made, or
 - (c) the High Court, if hearing proceedings relating to the conviction.
- (3) Subject to any express provision made under sub-paragraph (2), a permit shall cease to have effect on the making of a forfeiture order under this paragraph. 10
- (4) The terms on which forfeiture is ordered under this paragraph shall, in particular, include a requirement that the holder of the permit deliver to the licensing authority within such time as the order may specify –
- (a) the permit, or 15
 - (b) a statement explaining why it is not reasonably practicable to produce the permit.
- (5) As soon as is reasonably practicable after making or suspending an order for forfeiture under this paragraph a court shall notify the licensing authority.
- Renewal* 20
- 18 (1) The holder of a permit may apply to the licensing authority for renewal of the permit.
- (2) An application for renewal may not be made –
- (a) before the period of six months ending with the date on which the permit would otherwise expire in accordance with paragraph 12, or 25
 - (b) after the beginning of the period of two months ending with that date.
- (3) The provisions of this Schedule shall have effect (with any necessary modifications) in relation to an application for renewal as they have effect in relation to an application for a permit. 30
- (4) A licensing authority may refuse an application for renewal of a permit only on the grounds –
- (a) that an authorised local authority officer has been refused access to the premises without reasonable excuse, or
 - (b) that renewal would not be reasonably consistent with pursuit of the licensing objectives. 35
- (5) Paragraph 12 shall have effect in relation to a renewed permit as if the date of renewal were the date specified under paragraph 11(1)(c).
- (6) A permit shall not cease to have effect by virtue only of paragraph 12 while – 40
- (a) an application for renewal of the permit is pending, or
 - (b) an appeal against a decision on an application for renewal of the permit is pending.

Maintenance

- 19 The holder of a permit shall keep it on the premises.
- 20 (1) An occupier of premises in respect of which a permit has effect commits an offence if without reasonable excuse he fails to produce the permit on request for inspection by – 5
- (a) a constable,
 - (b) an enforcement officer, or
 - (c) an authorised local authority officer.
- (2) A person guilty of an offence under this paragraph shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale. 10
- 21 (1) Where a permit is lost, stolen or damaged, the holder may apply to the licensing authority for a copy.
- (2) An application under sub-paragraph (1) must be accompanied by the prescribed fee.
- (3) A licensing authority shall consider an application under this paragraph and shall grant it if satisfied – 15
- (a) that the permit has been lost, stolen or damaged, and
 - (b) where the permit has been lost or stolen, that the loss or theft has been reported to the police.
- (4) As soon as is reasonably practicable after granting an application under this paragraph a licensing authority shall issue a copy of the permit certified by the authority as a true copy. 20
- (5) A copy of a permit issued under this paragraph shall be treated as if it were the permit.

Appeal 25

- 22 (1) The applicant for or holder of a permit may appeal if the licensing authority –
- (a) reject an application for the issue or renewal of a permit,
 - (b) give a notice under paragraph 14, or
 - (c) give a notice under paragraph 15(1)(b). 30
- (2) An appeal under this paragraph must be instituted –
- (a) in the magistrates' court for a petty sessions area in which the premises to which the appeal relates are wholly or partly situated,
 - (b) by notice of appeal given to the justices' chief executive, and
 - (c) within the period of 21 days beginning with the day on which the appellant or holder receives notice of the decision against which the appeal is brought. 35
- (3) On an appeal the magistrates' court may –
- (a) dismiss the appeal;
 - (b) substitute for the decision appealed against any decision that the licensing authority could have made (with effect from such date and on such transitional or other terms as the court may specify);
 - (c) restore a permit (with effect from such date and on such transitional or other terms as the court may specify); 40

- (d) remit the case to the licensing authority to decide in accordance with a direction of the court;
 - (e) make an order about costs.
- (4) Sub-paragraph (1) applies to a decision of a licensing authority following remittal under sub-paragraph (3)(d). 5
- (5) In relation to premises in Scotland –
- (a) sub-paragraph (2)(a) shall have effect as if it referred to a sheriff within whose sheriffdom the premises are wholly or partly situated,
 - (b) sub-paragraph (2)(b) shall not have effect,
 - (c) the reference in sub-paragraph (3) to the magistrates' court shall have effect as a reference to the sheriff, and 10
 - (d) the reference in sub-paragraph (3) to costs shall have effect as a reference to expenses.

Register

- 23 (1) A licensing authority shall – 15
- (a) maintain a register of permits issued by the authority together with such other information as may be prescribed,
 - (b) make the register and information available for inspection by members of the public at all reasonable times, and
 - (c) make arrangements for the provision of a copy of an entry in the register, or of information, to a member of the public on request. 20
- (2) A licensing authority may refuse to provide a copy of an entry or of information unless the person seeking it pays a reasonable fee specified by the authority.
- (3) The Secretary of State may make regulations about – 25
- (a) the form of the register;
 - (b) the manner in which it is maintained.
- (4) The Secretary of State may make regulations –
- (a) requiring licensing authorities to give to the Commission specified information about permits issued by them; 30
 - (b) requiring the Commission to maintain a register of the information provided to it under paragraph (a);
 - (c) requiring the Commission to grant access to the register to members of the public (without charge);
 - (d) requiring the Commission to make copies of entries available on request, and on payment of a reasonable fee, to members of the public; 35
 - (e) excusing licensing authorities, wholly or partly, from compliance with sub-paragraph (1).

Vehicles and vessels 40

- 24 A permit may not be issued in respect of a vehicle or vessel (or part of a vehicle or vessel).

SCHEDULE 11

Section 252

EXEMPT LOTTERIES

PART 1

INCIDENTAL NON-COMMERCIAL LOTTERIES

<i>The exemption</i>	5
1 (1) A lottery is exempt if— (a) it is incidental to a non-commercial event within the meaning of paragraph 2 (“the connected event”), and (b) the conditions specified in this Part are satisfied.	
(2) A lottery to which sub-paragraph (1) applies is referred to in this Part as an incidental non-commercial lottery.	10
2 An event is non-commercial if no sum raised by the organisers of the event (whether by way of fees for entrance or for participation, by way of sponsorship, by way of commission from traders or otherwise) is appropriated for the purpose of private gain.	15
<i>Deductions from proceeds</i>	
3 The promoters of an incidental non-commercial lottery may not deduct from the proceeds of the lottery more than the prescribed sum in respect of the cost of the prizes (irrespective of their actual cost).	
4 The promoters of an incidental non-commercial lottery may not deduct from the proceeds of the lottery more than the prescribed sum in respect of costs incurred in organising the lottery (irrespective of the amount of the costs incurred).	20
<i>Purpose of lottery</i>	
5 An incidental non-commercial lottery must be promoted wholly for a purpose other than that of private gain.	25
<i>No rollover</i>	
6 The arrangements for an incidental non-commercial lottery must not include a rollover.	
<i>Connection between lottery and event</i>	30
7 (1) No lottery ticket for an incidental non-commercial lottery may be sold or supplied otherwise than— (a) on the premises on which the connected event takes place, and (b) while the connected event is taking place.	
(2) The results of the lottery must be made public while the connected event is taking place.	35

Interpretation: “prescribed”

- 8 In this Part “prescribed” means prescribed by the Secretary of State by regulations.

PART 2

PRIVATE LOTTERIES

5

The exemption

- 9 (1) A lottery is exempt if—
- (a) it is a private society lottery, a work lottery or a residents’ lottery within the meaning of paragraphs 10 to 12, and
 - (b) the other conditions specified in this Part are satisfied. 10
- (2) In this Part a reference to a private lottery is a reference to a private society lottery, a work lottery or a residents’ lottery.

Private society lottery

- 10 (1) A lottery is a private society lottery if—
- (a) it is promoted only by authorised members of a society, and 15
 - (b) each person to whom a ticket is sold is either a member of the society or on premises wholly or mainly used for the administration of the society or the conduct of its affairs (“society premises”).
- (2) In this Part “society” means any group or society established and conducted for purposes not connected with gambling. 20
- (3) In sub-paragraph (1)(a) “authorised” means authorised in writing by the society or, if it has one, its governing body.
- (4) In relation to a society which has branches or sections, the reference to a society in sub-paragraph (1)(a) is a reference to a single branch or section.

Work lottery

25

- 11 (1) A lottery is a work lottery if—
- (a) the promoters work on a single set of premises (“the work premises”), and
 - (b) each person to whom a ticket is sold or supplied also works on the work premises. 30
- (2) For the purposes of this paragraph a person works on premises if he—
- (a) is employed under a contract of employment to work at or from the premises,
 - (b) undertakes to work at or from the premises (whether or not for remuneration), or
 - (c) conducts a business at or from the premises. 35

Residents’ lottery

- 12 (1) A lottery is a residents’ lottery if—

- (a) the promoters live in a single set of premises (“the residential premises”), and
 - (b) each person to whom a ticket is sold or supplied also lives in the residential premises.
- (2) For the purposes of this paragraph a person lives in premises if he habitually resides in any part of the premises (whether or not there are other premises in which he also habitually resides). 5

Purpose of lottery

- 13 (1) A private society lottery may be promoted for any of the purposes for which the society is conducted. 10
- (2) A work lottery or residents’ lottery must be organised in such a way as to ensure that no profits are made.

Advertising

- 14 (1) No advertisement for a private society lottery may be – 15
- (a) displayed or distributed except on the society premises, or
 - (b) sent to any other premises.
- (2) No advertisement for a work lottery may be –
- (a) displayed or distributed except on the work premises, or
 - (b) sent to any other premises.
- (3) No advertisement for a residents’ lottery may be – 20
- (a) displayed or distributed except on the residential premises, or
 - (b) sent to any other premises.

Lottery tickets

- 15 Each ticket in a private lottery must be a document (without prejudice to section 247). 25
- 16 (1) A ticket in a private lottery may be sold or supplied only by or on behalf of the promoters.
- (2) The rights conferred by the sale or supply of a ticket in a private lottery shall not be transferable (and any purported transfer shall be treated by the promoters of the lottery as being ineffective). 30
- 17 Each ticket in a private lottery –
- (a) must state the name and an address of each of the promoters of the lottery,
 - (b) must specify the class of persons to whom the promoters are willing to sell or supply tickets, and 35
 - (c) must explain the condition in paragraph 16(2).

Price

- 18 The price payable for each ticket in a private lottery –
- (a) must be the same,
 - (b) must be shown on the ticket, and 40

- (c) must be paid to the promoters of the lottery before any person is given the ticket or any right in respect of membership of the class among whom prizes are to be allocated.

No rollover

- 19 The arrangements for a private lottery must not include a rollover. 5

PART 3

CUSTOMER LOTTERY

The exemption

- 20 (1) A lottery is exempt if—
- (a) it is promoted by a person (“the promoter”) who occupies premises in Great Britain in the course of a business (“the business premises”), 10
 - (b) no ticket in the lottery is sold or supplied to a person except at a time when he is on the business premises as a customer of the promoter, and
 - (c) the other conditions of a customer lottery specified in this Part are satisfied. 15
- (2) A lottery to which sub-paragraph (1) applies is referred to in this Part as a customer lottery.
- (3) For the purposes of sub-paragraph (1)(a)—
- (a) it is immaterial whether persons other than the person who occupies the business premises also perform activities which amount to promotion of the lottery in accordance with section 246, but 20
 - (b) a reference in this Part to the promoter does not include a reference to any of those other persons.

No profits 25

- 21 A customer lottery must be organised in such a way as to ensure that no profits are made.

Advertising

- 22 No advertisement for a customer lottery may be—
- (a) displayed or distributed except on the business premises, or 30
 - (b) sent to any other premises.

Lottery tickets

- 23 Each ticket in a customer lottery must be a document (without prejudice to section 247).
- 24 (1) A ticket in a customer lottery may be sold or supplied only by or on behalf of the promoter. 35
- (2) The rights conferred by the sale or supply of a ticket in a customer lottery shall not be transferable (and any purported transfer shall be treated by the promoter of the lottery as being ineffective).

- 25 Each ticket in a customer lottery –
- (a) must state the name and an address of the promoter of the lottery,
 - (b) must specify the class of persons to whom the promoter is willing to sell or supply tickets, and
 - (c) must explain the condition in paragraph 24(2).
- 5

Price

- 26 The price payable for each ticket in a customer lottery –
- (a) must be the same,
 - (b) must be shown on the ticket, and
 - (c) must be paid to the promoter of the lottery before any person is given the ticket or any right in respect of membership of the class among whom prizes are to be allocated.
- 10

Maximum prize

- 27 It must not be possible for the purchaser of a ticket in a customer lottery to win by virtue of that ticket more than £50 (whether in money, money's worth, or partly the one and partly the other).
- 15

No rollover

- 28 The arrangements for a customer lottery must not include a rollover.

Frequency

- 29 A draw in a customer lottery must not take place during a period of seven days beginning with a previous draw in –
- (a) that customer lottery, or
 - (b) another customer lottery promoted on the business premises.
- 20

PART 4

SMALL SOCIETY LOTTERIES 25

The exemption

- 30 (1) A lottery is exempt if –
- (a) it is promoted wholly on behalf of a non-commercial society (“the promoting society”),
 - (b) it is a small lottery (within the meaning of paragraph 31), and
 - (c) the other conditions of a small society lottery specified in this Part are satisfied.
- (2) A lottery promoted wholly on behalf of a non-commercial society is referred to in this Part as a small society lottery.
- 31 (1) For the purposes of this Part a society lottery is a small lottery unless it is a large lottery by virtue of any of sub-paragraphs (2) to (5). 35
- (2) A society lottery is a large lottery if the arrangements for it are such that its proceeds may exceed £20,000.

(3)	A society lottery is a large lottery if it is promoted wholly or partly at a time in a calendar year at which the aggregate of the promoting society's proceeds from society lotteries promoted wholly or partly during that year exceeds £250,000.	
(4)	A society lottery is a large lottery if the arrangements for it are such that (disregarding any other society lottery the sale of tickets for which is not concluded) it may during its promotion become a large lottery by virtue of sub-paragraph (3).	5
(5)	If a society promotes a lottery that is a large society lottery by virtue of sub-paragraph (2), (3) or (4) ("the first lottery"), any other society lottery promoted by that society is a large lottery if it is wholly or partly promoted—	10
	(a) after the beginning of the promotion of the first lottery and in a calendar year during which the first lottery is wholly or partly promoted, or	15
	(b) in any of the three calendar years successively following the last calendar year during which the first lottery was wholly or partly promoted.	
 <i>Promotion</i>		
32	A small society lottery may be promoted only—	20
	(a) by members of the promoting society authorised in writing by the society or, if it has one, its governing body;	
	(b) by the holder of a lottery manager's operating licence authorised in writing by the society or, if it has one, its governing body.	
 <i>Purpose of lottery</i>		
33	A small society lottery may be promoted for any of the purposes for which the promoting society is conducted.	25
 <i>Minimum distribution for fund-raising purpose</i>		
34	The arrangements for a small society lottery must ensure that at least 20% of the proceeds of the lottery are applied to a purpose for which the society is conducted.	30
 <i>Maximum prize</i>		
35	It must not be possible for the purchaser of a ticket in a small society lottery to win by virtue of that ticket (whether in money, money's worth, or partly the one and partly the other) more than £25,000.	35
 <i>Rollover</i>		
36	(1) The arrangements for a small society lottery may include a rollover only if each other lottery which may be affected by the rollover is a small society lottery promoted by or on behalf of the same society.	
	(2) This paragraph is subject to paragraph 35.	40

Tickets

- 37 (1) Where a person purchases a lottery ticket in a small society lottery he must receive a document which –
- (a) identifies the promoting society,
 - (b) states the price of the ticket, 5
 - (c) states the name and an address of –
 - (i) a member of the society who is designated, by persons acting on behalf of the society, as having responsibility within the society for the promotion of the lottery, or
 - (ii) if there is one, the external lottery manager, and 10
 - (d) either –
 - (i) states the date of the draw (or each draw) in the lottery, or
 - (ii) enables the date of the draw (or each draw) in the lottery to be determined.
- (2) For the purpose of sub-paragraph (1) a reference to a person receiving a document includes, in particular, a reference to a message being sent or displayed to him electronically in a manner which enables him to –
- (a) retain the message electronically, or
 - (b) print it. 15

Price 20

- 38 (1) The price payable for each ticket in a small society lottery –
- (a) must be the same, and
 - (b) must be paid to the promoter of the lottery before any person is given the ticket or any right in respect of membership of the class among whom prizes are to be allocated. 25
- (2) Membership of the class among whom prizes in a small society lottery are allocated may not be dependent on making any payment (apart from payment of the price of a ticket).

Registration

- 39 The promoting society of a small society lottery must, throughout the period during which the lottery is promoted, be registered with a local authority in accordance with Part 5 of this Schedule. 30

Filing of records

- 40 (1) The promoting society of a small society lottery must send to the local authority with which the society is registered under Part 5 of this Schedule a statement of the matters specified in sub-paragraph (2). 35
- (2) Those matters are –
- (a) the arrangements for the lottery (including the dates on which tickets were available for sale or supply, the dates of any draw and the arrangements for prizes (including any rollover), 40
 - (b) the proceeds of the lottery,
 - (c) the amounts deducted by the promoters of the lottery in respect of the provision of prizes (including the provision of prizes in accordance with any rollover),

-
- (d) the amounts deducted by the promoters of the lottery in respect of other costs incurred in organising the lottery,
- (e) any amount applied to a purpose for which the promoting society is conducted, and
- (f) whether any expenses in connection with the lottery were defrayed otherwise than by deduction from proceeds, and, if they were –
- (i) the amount of the expenses, and
- (ii) the sources from which they were defrayed. 5
- (3) The statement must be sent to the local authority during the period of three months beginning with the day on which the draw (or the last draw) in the lottery takes place. 10
- (4) The statement must be –
- (a) signed by two members of the society who are appointed for the purpose in writing by the society or, if it has one, its governing body, and
- (b) accompanied by a copy of the appointment under paragraph (a). 15
- (5) A member signing a statement in accordance with sub-paragraph (4) must be an adult.
- 41 (1) If after receiving a statement under paragraph 40 a local authority think that the lottery to which the statement relates was a large lottery, they shall notify the Commission in writing. 20
- (2) A notice under sub-paragraph (1) shall be accompanied by a copy of –
- (a) the statement relating to the lottery, and
- (b) the statement relating to any other lottery as a result of which the lottery mentioned in paragraph (a) is a large lottery. 25

PART 5

REGISTRATION WITH LOCAL AUTHORITY

Local authority

- 42 In this Part “local authority” means –
- (a) in relation to England – 30
- (i) a district council,
- (ii) a county council for a county in which there are no district councils,
- (iii) a London borough council,
- (iv) the Common Council of the City of London, and
- (v) the Council of the Isles of Scilly, 35
- (b) in relation to Wales,
- (i) a county council, and
- (ii) a county borough council, and
- (c) in relation to Scotland, a licensing board constituted under section 1 of the Licensing (Scotland) Act 1976 (c. 66). 40

Application

- 43 (1) A society may apply to the relevant local authority for registration under this Part.
- (2) An application under this paragraph –
- (a) must be in the prescribed form, 5
 - (b) must specify the purposes for which the society is conducted,
 - (c) must contain such other information, and be accompanied by such documents, as may be prescribed, and
 - (d) must be accompanied by the prescribed fee.
- 44 In relation to the registration of a society, the relevant local authority is the local authority for the area in which the principal premises of the society are situated. 10

Registration

- 45 As soon as is reasonably practicable after receipt of an application under paragraph 43 a local authority shall, subject to paragraphs 48 and 49 – 15
- (a) enter the applicant, together with such information as may be prescribed, in a register kept by the authority for the purposes of this Part,
 - (b) notify the applicant of his registration, and
 - (c) notify the Commission of the registration. 20

Gambling Commission

- 46 As soon as is reasonably practicable after receipt of notice of a registration under paragraph 45(c) the Commission shall record the registration.
- 47 (1) A notice under paragraph 45(c) must be accompanied by such part of the application fee as may be prescribed. 25
- (2) In sub-paragraph (1) “application fee” means the fee accompanying an application under paragraph 43.

Refusal of registration

- 48 A local authority shall refuse an application for registration if in the period of five years ending with the date of the application – 30
- (a) an operating licence held by the applicant for registration has been revoked under section 117(1), or
 - (b) an application for an operating licence made by the applicant for registration has been refused.
- 49 A local authority may refuse an application for registration if they think that – 35
- (a) the applicant is not a non-commercial society,
 - (b) a person who will or may be connected with the promotion of the lottery has been convicted of a relevant offence, or
 - (c) information provided in or with the application for registration is false or misleading. 40

- 50 A local authority may not refuse an application for registration unless they have given the applicant an opportunity to make representations.

Revocation

- 51 (1) A local authority may revoke a registration under this Part if they think that they would be obliged or permitted to refuse an application for the registration were it being made anew. 5
- (2) Where a local authority revoke a registration under this Part they shall specify that the revocation takes effect –
- (a) immediately, or
 - (b) at the end of such period, beginning with the day of the revocation and not exceeding two months, as they may specify. 10
- (3) A local authority may not revoke a registration under this Part unless they have given the registered society an opportunity to make representations.

Appeal

- 52 (1) If a local authority refuse or revoke registration under this Part – 15
- (a) the authority shall notify the applicant society or the formerly registered society as soon as is reasonably practicable, and
 - (b) the society may appeal to a magistrates' court.
- (2) An appeal under this paragraph must be instituted –
- (a) in a magistrates' court for a commission area which is wholly or partly within the area of the local authority against whose decision the appeal is brought, 20
 - (b) by notice of appeal given to the justices' chief executive, and
 - (c) in the period of 21 days beginning with the day on which the society is notified of the refusal or revocation of registration, and 25
- (3) On an appeal under this paragraph a magistrates' court may –
- (a) affirm the local authority's decision;
 - (b) reverse the local authority's decision;
 - (c) make any other order (which may include transitional provision).
- (4) In relation to registration in Scotland – 30
- (a) sub-paragraph (1)(b) shall have effect as if the reference to a magistrate's court were a reference to a sheriff whose sheriffdom is wholly or partly within the area of the local authority against whose decision the appeal is brought,
 - (b) sub-paragraph (2)(a) and (b) shall not have effect, and 35
 - (c) sub-paragraph (3) shall have effect as if the reference to a magistrate's court were a reference to the sheriff.

Cancellation

- 53 A registered society may apply in writing to the registering authority for the registration to be cancelled. 40
- 54 As soon as is reasonably practicable after receipt of an application under paragraph 53 a local authority shall –
- (a) cancel the registration,

- (b) notify the formerly registered society of the cancellation, and
- (c) notify the Commission of the cancellation.

Annual fee

- 55 (1) A registered society shall pay an annual fee to the registering local authority.
- (2) An annual fee – 5
- (a) shall be paid within such period before each anniversary of the registration as may be prescribed, and
 - (b) shall be of the prescribed amount.
- (3) If a registered society fails to comply with this paragraph the registering authority may cancel the society’s registration. 10
- (4) If a local authority cancel a registration under sub-paragraph (3) the authority shall as soon as is reasonably practicable notify –
- (a) the formerly registered society, and
 - (b) the Commission.

Retention of records 15

- 56 (1) Where a statement is sent to a local authority under paragraph 40 the authority shall –
- (a) retain it for at least 18 months,
 - (b) make it available for inspection by members of the public at all reasonable times, and 20
 - (c) make arrangements for the provision of a copy of it or part of it to any member of the public on request.
- (2) But a local authority may refuse to provide access or a copy unless the person seeking access or a copy pays a fee specified by the authority.
- (3) A local authority may not specify a fee under sub-paragraph (2) which exceeds the reasonable cost of providing the service sought (but in calculating the cost of providing a service to a person the authority may include a reasonable share of expenditure which is referable only indirectly to the provision of that service). 25

Interpretation: “prescribed” 30

- 57 In this Part “prescribed” means prescribed by the Secretary of State by regulations except that, in the following provisions, it means prescribed by the Scottish Ministers by regulations –
- (a) in paragraph 43(2)(d), where the application is made to a local authority in Scotland, 35
 - (b) in paragraph 47(1), where the local authority giving notice is in Scotland, and
 - (c) in paragraph 55(2)(b), where the registering local authority is in Scotland.

PART 6

POWERS TO IMPOSE ADDITIONAL RESTRICTIONS, &c.

Distributing lottery tickets by post

- 58 (1) The Secretary of State may by regulations impose a condition in relation to exempt lotteries requiring that tickets purchased be delivered to the purchaser by hand at the time of purchase and not by post. 5
- (2) Regulations under this paragraph may apply generally, only in relation to a specified class of lottery or only in specified circumstances.

Rollover

- 59 (1) The Secretary of State may by regulations impose in relation to exempt lotteries conditions or limitations in respect of the use of a rollover (in addition to any conditions or limitations set out in this Schedule). 10
- (2) Regulations under this paragraph may apply generally, only in relation to a specified class of lottery or only in specified circumstances.

Other additional provision

- 60 (1) The Secretary of State may by order impose in relation to a class of lottery a condition (in addition to any specified in this Schedule) with which a lottery must comply if it is to be an exempt lottery within the meaning of this Schedule. 15
- (2) A condition imposed under this paragraph may, in particular, relate to— 20
- (a) the persons who may sell or supply lottery tickets;
 - (b) the persons who may buy lottery tickets;
 - (c) the circumstances in which lottery tickets are sold or supplied;
 - (d) the nature of lottery tickets and information appearing on them;
 - (e) arrangements for advertising the lottery; 25
 - (f) the deductions which promoters may make from the proceeds of a lottery.
- (3) The Secretary of State may by order restrict the extent to which a person may carry on activities in reliance on an exemption under this Schedule.
- (4) An order under sub-paragraph (3) may, in particular, make provision— 30
- (a) restricting the number of lotteries that may be promoted on behalf of a person wholly or partly within a specified period;
 - (b) prescribing a minimum interval between activity in connection with one lottery promoted on behalf of a person and activity in connection with another lottery promoted on behalf of that person. 35
- (5) Before making an order under this paragraph the Secretary of State must consult the Commission.

Variation of monetary limits and percentages

- 61 The Secretary of State may by order vary a monetary amount or a percentage in this Schedule. 40

PART 7

GENERAL

Interpretation: advertisement

- 62 For the purposes of this Schedule—
- (a) “advertisement”, in relation to a lottery, includes any document, or electronic communication, announcing that a lottery will take place or inviting people to participate in a lottery (in either case whether or not it also gives other information), 5
 - (b) a reference to displaying an advertisement includes a reference to publishing a notice, and 10
 - (c) in the case of an advertisement in the form of an electronic communication, the communication is to be treated as being—
 - (i) distributed to any place at which a person can access it, and
 - (ii) sent to any premises at which a person can access it.

Interpretation: business 15

- 63 In this Schedule “business” includes trade and profession.

Vessels

- 64 Nothing in Part 2 or 3 of this Schedule applies to anything done on a vessel.

SCHEDULE 12

Section 269

CLUB GAMING PERMITS AND CLUB MACHINE PERMITS 20

Application

- 1 (1) A members’ club or miners’ welfare institute may apply to a licensing authority for a club gaming permit.
- (2) A members club, commercial club or miners’ welfare institute may apply to a licensing authority for a club machine permit. 25
- 2 An application must—
- (a) be made to a licensing authority in whose area the premises are wholly or partly situated,
 - (b) specify the premises in relation to which the permit is sought,
 - (c) be made in the prescribed form and manner, 30
 - (d) contain or be accompanied by the prescribed information and documents, and
 - (e) be accompanied by the prescribed fee.
- 3 (1) A club or institute making an application for a permit must within the prescribed time send a copy of the application and of any accompanying documents to— 35
- (a) the Commission, and

- (b) the chief officer of police for any police area in which the premises are wholly or partly situated.
- (2) If a club or institute fails to comply with sub-paragraph (1) the application, and any permit issued in response to it, shall have no effect.
- Consideration of application* 5
- 4 A person who receives a copy of an application for a permit in accordance with paragraph 3 may object to the application within the prescribed period of time and in the prescribed manner.
- 5 The licensing authority to whom an application for a permit is made shall consider the application and – 10
- (a) grant it, or
- (b) refuse it.
- 6 (1) A licensing authority may refuse an application for a permit only on one or more of the following grounds (having regard to the matters mentioned in paragraph 26) – 15
- (a) that the applicant is not –
- (i) in the case of an application for a club gaming permit, a members’ club or a miners’ welfare institute, or
- (ii) in the case of an application for a club machine permit, a members’ club, a commercial club or a miners’ welfare institute, 20
- (b) that the premises on which the applicant conducts its activities are used wholly or mainly by children, by young persons or by both,
- (c) that an offence, or a breach of a condition of a permit, has been committed in the course of gaming activities carried on by the applicant, 25
- (d) that a permit held by the applicant has been cancelled during the period of ten years ending with the date of the application, or
- (e) that an objection to the application has been made under paragraph 4. 30
- (2) If a licensing authority are satisfied in relation to an application for a permit of the matters specified in sub-paragraph (1)(a) or (b), they shall refuse the application.
- 7 (1) Before refusing an application for a permit a licensing authority must hold a hearing to consider the application and any objection made under paragraph 4. 35
- (2) But a licensing authority may dispense with the requirement for a hearing with the consent of –
- (a) the applicant, and
- (b) any person who has made (and not withdrawn) an objection under paragraph 4. 40
- 8 (1) Where a licensing authority grant an application for a permit they shall as soon as is reasonably practicable –
- (a) give notice of their decision and, where an objection was made under paragraph 4, of the reasons for it to – 45
- (i) the applicant,

- (ii) the Commission, and
 - (iii) the chief officer of police for any area in which the premises specified in the application are wholly or partly situated, and
 - (b) issue the permit to the applicant.
- (2) A licensing authority may not attach conditions to a permit. 5
- 9 Where a licensing authority reject an application for a permit they shall as soon as is reasonably practicable give notice of their decision and the reasons for it to –
 - (a) the applicant,
 - (b) the Commission, and 10
 - (c) the chief officer of police for any area in which the premises specified in the application are wholly or partly situated.

Fast-track procedure for holder of club premises certificate

- 10 (1) This paragraph applies to an application if –
 - (a) the applicant for a permit is the holder of a club premises certificate under section 72 of the Licensing Act 2003 (c. 17), and 15
 - (b) the application asserts that paragraph (a) is satisfied and is accompanied by the certificate.
- (2) In the case of an application to which this paragraph applies –
 - (a) paragraphs 3 to 6 shall not apply, and 20
 - (b) paragraphs 7 and 8 shall apply with the omission of any reference to objections.
- (3) The authority to whom an application to which this paragraph applies is made shall grant it unless they think –
 - (a) that the applicant is established or conducted wholly or mainly for the purposes of the provision of facilities for gaming, other than gaming of a prescribed kind, 25
 - (b) that the applicant is established or conducted wholly or mainly for the purposes of the provision of facilities for gaming of a prescribed kind and also provides facilities for gaming of another kind, or 30
 - (c) that a club gaming permit or club machine permit issued to the applicant has been cancelled during the period of ten years ending with the date of the application.
- (4) Regulations prescribing anything for the purposes of this Act may, in particular, make provision that differs in effect according to whether or not a permit is granted in pursuance of an application to which this paragraph applies. 35
- (5) This paragraph does not apply to Scotland.

Form of permit

- 11 (1) A permit must be in the prescribed form and must specify – 40
 - (a) the name of the club or institute in respect of which it is issued,
 - (b) the premises to which it relates,
 - (c) whether it is a club gaming permit or a club machine permit,
 - (d) the date on which it takes effect, and

(e) such other information as may be prescribed.

- (2) If the application for the permit was made in accordance with paragraph 10, the permit must also identify the club premises certificate under section 72 of the Licensing Act 2003 (c. 17).

Maintenance

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12 The holder of a permit shall keep it on the premises to which it relates.

- 13 (1) An occupier of premises to which a permit relates commits an offence if without reasonable excuse he fails to produce the permit on request for inspection by –

- (a) a constable, or
(b) an enforcement officer.

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- (2) A person guilty of an offence under sub-paragraph (1) shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

14 (1) The holder of a permit –

- (a) shall pay a first annual fee to the issuing licensing authority within such period after the issue of the permit as may be prescribed, and
(b) shall pay an annual fee to the issuing licensing authority before each anniversary of the issue of the permit.

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- (2) In this paragraph “annual fee” means a fee of such amount as may be prescribed.

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- (3) Sub-paragraph (1)(b) does not apply in relation to an anniversary of the issue of a permit immediately before which the permit expires in accordance with paragraph 17.

15 (1) If information contained in a permit ceases to be accurate the holder of the permit shall as soon as is reasonably practicable apply to the issuing licensing authority to have the permit varied.

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- (2) An application under sub-paragraph (1) must be accompanied by –

- (a) the prescribed fee, and
(b) either –
(i) the permit, or
(ii) a statement explaining why it is not reasonably practicable to produce the permit.

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- (3) The licensing authority to whom an application is made under sub-paragraph (1) shall issue a copy of the permit varied in accordance with the application (and the copy shall be treated as if it were the original permit).

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- (4) But if the authority think that they would refuse an application for the permit were it made anew, they may –

- (a) refuse the application for variation, and
(b) cancel the permit.

- (5) Paragraphs 7, 9 and 26 apply in relation to a decision under sub-paragraph (4) as they apply in relation to a decision to refuse an application for a permit (and paragraph 20 shall not apply).

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- (6) The holder of a permit commits an offence if without reasonable excuse he fails to comply with sub-paragraph (1).
- (7) A person guilty of an offence under sub-paragraph (4) shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.
- 16 (1) Where a permit is lost, stolen or damaged, the holder may apply to the issuing licensing authority for a copy. 5
- (2) An application under sub-paragraph (1) must be accompanied by the prescribed fee.
- (3) A licensing authority shall grant an application under sub-paragraph (1) if satisfied – 10
- (a) that the permit has been lost, stolen or damaged, and
- (b) where the permit has been lost or stolen, that the loss or theft has been reported to the police.
- (4) As soon as is reasonably practicable after granting an application under sub-paragraph (1) a licensing authority shall issue a copy of the permit certified by the authority as a true copy (and the copy shall be treated as if it were the original permit). 15

Duration

- 17 (1) A permit shall cease to have effect at the end of the period of ten years beginning with the date on which it is issued unless – 20
- (a) it ceases to have effect before that time in accordance with a provision of this Schedule, or
- (b) it is renewed in accordance with paragraph 24.
- (2) But a permit issued in pursuance of an application to which paragraph 10 applies – 25
- (a) shall not cease to have effect by virtue of sub-paragraph (1),
- (b) may cease to have effect in accordance with paragraph 19, 21, 22 or 23, and
- (c) shall lapse if the club premises certificate on which the application relied ceases to have effect. 30
- 18 (1) If the holder of a permit ceases to be a members' club (whether or not it becomes a commercial club), a commercial club or a miners' welfare institute, the permit shall lapse.
- (2) But this paragraph does not apply to a permit issued in pursuance of an application to which paragraph 10 applies. 35
- 19 (1) A permit shall cease to have effect upon being surrendered by notice given by the holder of the permit to the issuing licensing authority.
- (2) A notice under sub-paragraph (1) must be accompanied by –
- (a) the permit, or
- (b) a statement explaining why it is not reasonably practicable to produce the permit. 40
- 20 (1) The licensing authority which issues a permit shall as soon as is reasonably practicable inform the persons specified in sub-paragraph (2) if the authority –

- (a) believe that the permit has lapsed under paragraph 17(2)(c) or 18, or
 - (b) receive notice of surrender under paragraph 19.
- (2) The persons mentioned in sub-paragraph (1) are –
- (a) the Commission, and
 - (b) the chief officer of police for any area in which the premises to which the permit relates are wholly or partly situated. 5

Cancellation and forfeiture

- 21 (1) The licensing authority which issued a permit may cancel it if the authority think –
- (a) that the premises on which the holder of the permit conducts its activities are used wholly or mainly by children, by young persons or by both, or 10
 - (b) that an offence, or a breach of a condition of a permit, has been committed in the course of gaming activities carried on by the holder of the permit. 15
- (2) Before cancelling a permit under this paragraph a licensing authority shall –
- (a) give the holder of the permit at least 21 days' notice of the authority's intention to consider cancelling the permit,
 - (b) consider any representations made by the holder,
 - (c) hold a hearing if the holder requests one, and 20
 - (d) comply with any prescribed requirements for the procedure to be followed in considering whether to cancel a permit.
- (3) If a licensing authority cancel a permit they shall as soon as is reasonably practicable give notice of the cancellation and the reasons for it to –
- (a) the holder, 25
 - (b) the Commission, and
 - (c) the chief officer of police for any area in which the premises to which the permit relates are wholly or partly situated.
- (4) The cancellation of a permit shall not take effect until –
- (a) the period specified in paragraph 25(5)(c) has expired without an appeal being brought, or 30
 - (b) any appeal brought has been determined.
- 22 (1) The licensing authority which issued a permit shall cancel it if the holder fails to pay the annual fee in accordance with paragraph 14.
- (2) But a licensing authority may disapply sub-paragraph (1) if they think that a failure to pay is attributable to administrative error. 35
- 23 (1) Where the holder of a permit, or an officer of the holder of a permit, is convicted of an offence under this Act by or before a court in Great Britain, the court may order forfeiture of the permit.
- (2) Forfeiture under this paragraph shall be on such terms (which may include terms as to suspension) as may be specified by –
- (a) the court which orders forfeiture,
 - (b) a court to which an appeal against the conviction, or against any order made on the conviction, has been or could be made, or
 - (c) the High Court, if hearing proceedings relating to the conviction. 45

- (3) Subject to any express provision made under sub-paragraph (2), a permit shall cease to have effect on the making of a forfeiture order under sub-paragraph (1).
- (4) The terms on which a forfeiture order is made under this paragraph shall, in particular, include a requirement that the holder deliver to the licensing authority who issued the permit, within such time as the order may specify –
 - (a) the permit, or
 - (b) a statement explaining why it is not reasonably practicable to produce the permit.
- (5) As soon as is reasonably practicable after making an order for forfeiture under this paragraph the court shall notify the licensing authority who issued the permit.

Renewal

- 24 (1) The holder of a permit may apply to the issuing authority for its renewal.
- (2) An application for the renewal of a permit may not be made –
 - (a) before the period of three months ending with the date on which the permit would otherwise expire, or
 - (b) after the beginning of the period of six weeks ending with that date.
- (3) The provisions of this Schedule shall have effect (with any necessary modifications) in relation to an application for renewal as they have effect in relation to an application for a permit.
- (4) Paragraph 17 shall have effect in relation to a renewed permit with the substitution of the date of renewal for the date of issue.
- (5) A permit shall not cease to have effect by virtue only of paragraph 17 while –
 - (a) an application for renewal of the permit is pending, or
 - (b) an appeal against a decision on an application for renewal of the permit is pending.

Appeal

- 25 (1) Where a licensing authority reject an application for the issue or renewal of a permit the applicant may appeal.
- (2) Where a licensing authority grant an application for the issue or renewal of a permit in relation to which an objection was made under paragraph 4, the person who made the objection may appeal.
- (3) Where a licensing authority cancel a permit the holder may appeal.
- (4) Where a licensing authority determine not to cancel a permit, any person who in accordance with regulations under paragraph 21(2)(d) made representations to the authority in connection with their consideration whether to cancel the permit may appeal.
- (5) An appeal under this paragraph must be instituted –
 - (a) in the magistrates' court for a petty sessions area in which the premises to which the appeal relates are wholly or partly situated,

- (b) by notice of appeal given to the justices' chief executive, and
 - (c) within the period of 21 days beginning with the day on which the appellant receives notice of the decision against which the appeal is brought.
- (6) On an appeal a magistrates' court may – 5
- (a) dismiss the appeal;
 - (b) substitute for the decision appealed against any decision that the licensing authority could have made;
 - (c) restore a permit (with effect from such date and on such transitional or other terms as the court may specify); 10
 - (d) remit the case to the licensing authority to decide in accordance with a direction of the court;
 - (e) make an order about costs.
- (7) In relation to premises in Scotland – 15
- (a) sub-paragraph (5)(a) shall have effect as if it referred to a sheriff within whose sheriffdom the premises are wholly or partly situated,
 - (b) sub-paragraph (5)(b) shall not have effect,
 - (c) the reference in sub-paragraph (6) to the magistrates' court shall have effect as a reference to the sheriff, and
 - (d) the reference in sub-paragraph (6)(e) to costs shall have effect as a reference to expenses. 20
- (8) Sub-paragraphs (1) to (4) apply to a decision of a licensing authority following remittal under sub-paragraph (4)(c) above.

Register

- 26 (1) A licensing authority shall – 25
- (a) maintain a register of permits issued by the authority together with such other information as may be prescribed,
 - (b) make the register and information available for inspection by members of the public at all reasonable times, and
 - (c) make arrangements for the provision of a copy of an entry in the register, or of information, to a member of the public on request. 30
- (2) A licensing authority may refuse to provide a copy of an entry or of information unless the person seeking it pays a reasonable fee specified by the authority.
- (3) The Secretary of State may make regulations about – 35
- (a) the form of the register;
 - (b) the manner in which it is maintained.
- (4) The Secretary of State may make regulations – 40
- (a) requiring licensing authorities to give to the Commission specified information about permits issued by them;
 - (b) requiring the Commission to maintain a register of the information provided to it under paragraph (a);
 - (c) requiring the Commission to grant access to the register to members of the public (without charge);

- (d) requiring the Commission to make copies of entries available on request, and on payment of a reasonable fee, to members of the public;
- (e) excusing licensing authorities, wholly or partly, from compliance with sub-paragraph (1). 5

Exercise of functions by licensing authority: general

- 27 In exercising a function under this Schedule a licensing authority shall have regard to –
- (a) any relevant guidance under section 26, and
 - (b) subject to paragraph (a), the licensing objectives. 10
- 28 (1) Section 152 shall have effect in relation to the functions of a licensing authority under this Schedule as it has effect in relation to functions of a licensing authority under Part 8.
- (2) In the application of section 152 to this Schedule the following shall be substituted for the list of functions in subsection (4) (which itself substitutes a list of functions for that in section 10(4) of the Licensing Act 2003) – 15
- (a) determination of an application for a permit in respect of which an objection has been made under this Schedule (and not withdrawn), and
 - (b) cancellation of a permit under paragraph 21. 20

Vehicles and vessels

- 29 A club gaming permit or club machine permit may not be issued in respect of a vehicle or vessel (or part of a vehicle or vessel).

Interpretation

- 30 In this Schedule “prescribed” means prescribed by the Secretary of State by regulations except that in paragraphs 1(2)(e), 15(2)(a) and 16(2) it means, where the application in question is made to a licensing authority in Scotland, prescribed by the Scottish Ministers by regulations. 25
- 31 This Schedule shall, in its application to Scotland, have effect as if references to a chief officer of police were references to a chief constable. 30

SCHEDULE 13

Section 278

LICENSED PREMISES GAMING MACHINE PERMITS

Making of application

- 1 (1) A person who applies to a licensing authority (in its capacity as a licensing authority under the Licensing Act 2003 (c. 17)) for an on-premises alcohol licence or who holds an on-premises alcohol licence issued by a licensing authority (in that capacity) may apply to that licensing authority (in its capacity as a licensing authority under this Act) for a licensed premises gaming machine permit. 35

- (2) An application may not be made under this Schedule if a licence under Part 8 has effect in relation to the premises.
- 2 An application for a permit must—
- (a) be made in such form and manner as the licensing authority may direct, 5
 - (b) specify the premises in respect of which the permit is sought,
 - (c) specify the number and category of gaming machines in respect of which the permit is sought,
 - (d) contain or be accompanied by such other information or documents as the licensing authority may direct, and 10
 - (e) be accompanied by the prescribed fee.
- 3 Section 152 shall have effect in relation to the functions of a licensing authority under this Schedule as it has effect in relation to functions of a licensing authority under Part 8.
- 4 (1) A licensing authority to whom an application is made under this Schedule shall consider it having regard to the licensing objectives, any relevant guidance issued by the Commission under section 25 and such other matters as they think relevant. 15
- (2) On considering an application for a permit a licensing authority shall—
- (a) grant the application, 20
 - (b) refuse the application, or
 - (c) grant it in respect of—
 - (i) a smaller number of machines than that specified in the application,
 - (ii) a different category of machines from that specified in the application, or 25
 - (iii) both.
- 5 (1) A licensing authority may not attach conditions to a permit.
- (2) As soon as is reasonably practicable after granting an application, a licensing authority shall issue a permit to the applicant. 30
- (3) As soon as is reasonably practicable after refusing an application a licensing authority shall notify the applicant of—
- (a) the refusal, and
 - (b) the reasons for it.
- 6 (1) A licensing authority may grant an application under this Schedule only if the applicant holds an on-premises alcohol licence. 35
- (2) A licensing authority may not refuse an application, or grant an application in respect of a different category or smaller number of gaming machines than that specified in the application, unless they have—
- (a) notified the applicant of their intention to refuse the application, or grant the application in respect of— 40
 - (i) a smaller number of machines than that specified in the application,
 - (ii) a different category of machines from that specified in the application, or 45
 - (iii) both, and

- (b) given the applicant an opportunity to make representations.
- (3) A licensing authority may satisfy sub-paragraph (2)(b) by giving the applicant an opportunity to make –
 - (a) oral representations,
 - (b) written representations, or
 - (c) both.
- (4) Sub-paragraph (2)(b) shall not apply in respect of a refusal if the refusal was by virtue of sub-paragraph (1).

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Form of permit

- 7 (1) A permit must be in the prescribed form and must specify –
 - (a) the person to whom it is issued,
 - (b) the premises,
 - (c) the number and category of gaming machines which it authorises, and
 - (d) the date on which it takes effect.
- (2) If the person to whom a permit is issued changes his name or wishes to be known by another name –
 - (a) he may send the permit to the licensing authority with –
 - (i) the prescribed fee, and
 - (ii) a request that a new name be substituted for the old name, and
 - (b) the licensing authority shall comply with the request and return the permit to the holder.

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Maintenance

- 8 The holder of a permit shall keep it on the premises to which it relates.
- 9 (1) The holder of a permit –
 - (a) shall pay a first annual fee to the issuing licensing authority within such period after the issue of the permit as may be prescribed, and
 - (b) shall pay an annual fee to the issuing licensing authority before each anniversary of the issue of the permit.
- (2) In this paragraph “annual fee” means a fee of such amount as may be prescribed.
- 10 (1) An occupier of premises in respect of which a permit has effect commits an offence if without reasonable excuse he fails to produce the permit on request for inspection by –
 - (a) a constable,
 - (b) an enforcement officer, or
 - (c) an authorised local authority officer.
- (2) A person guilty of an offence under this paragraph shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.
- 11 (1) Where a permit is lost, stolen or damaged, the holder may apply to the licensing authority for a copy.

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- (2) An application under sub-paragraph (1) must be accompanied by the prescribed fee.
- (3) A licensing authority shall consider an application under this paragraph and shall grant it if satisfied –
- (a) that the permit has been lost, stolen or damaged, and 5
 - (b) where the permit has been lost or stolen, that the loss or theft has been reported to the police.
- (4) As soon as is reasonably practicable after granting an application under this paragraph a licensing authority shall issue a copy of the permit certified by the authority as a true copy. 10
- (5) A copy of a permit issued under this paragraph shall be treated as if it were the permit.
- 12 A permit shall continue to have effect unless and until it ceases to have effect in accordance with a provision of this Schedule.
- 13 A permit shall cease to have effect if – 15
- (a) an on-premises alcohol licence ceases to have effect with respect to the premises to which it relates, or
 - (b) the permit holder ceases to be the holder of an on-premises alcohol licence.
- 14 A permit shall cease to have effect if the permit holder gives to the licensing authority – 20
- (a) notice of surrender, and
 - (b) either – 25
 - (i) the permit, or
 - (ii) a statement explaining why it is not reasonably practicable to produce the permit.

Variation

- 15 (1) The holder of a permit may apply to the licensing authority to vary the number or category (or both) of gaming machines authorised by the permit.
- (2) Paragraphs 1 to 7 shall have effect (with any necessary modifications) in relation to an application for variation under this paragraph as they have effect in relation to an application for the issue of a permit. 30

Cancellation and forfeiture

- 16 (1) The licensing authority which issued a permit may cancel it, or may vary the number or category (or both) of gaming machines authorised by it, if they think that – 35
- (a) it would not be reasonably consistent with pursuit of the licensing objectives for the permit to continue to have effect,
 - (b) gaming has taken place on the premises in purported reliance on the permit but otherwise than in accordance with the permit or a condition of the permit, 40
 - (c) the premises are mainly used or to be used for making gaming machines available, or
 - (d) an offence under this Act has been committed on the premises.

- (2) Before cancelling or varying a permit under this paragraph a licensing authority shall –
 - (a) give the permit holder at least 21 days’ notice of the authority’s intention to consider cancelling or varying the permit,
 - (b) consider any representations made by the holder, 5
 - (c) hold a hearing if the holder requests one, and
 - (d) comply with any prescribed requirements for the procedure to be followed in considering whether to cancel or vary a permit.
- (3) If a licensing authority cancel or vary a permit under this paragraph they shall as soon as is reasonably practicable give notice of the cancellation or variation and the reasons for it to – 10
 - (a) the permit holder, and
 - (b) the Commission.
- (4) The cancellation or variation of a permit shall not take effect until – 15
 - (a) the period specified in paragraph 20 has expired without an appeal being brought, or
 - (b) any appeal brought has been determined.
- 17 (1) The licensing authority which issued a permit shall cancel it if the holder fails to pay the annual fee in accordance with paragraph 9.
- (2) But a licensing authority may disapply sub-paragraph (1) if they think that a failure to pay is attributable to administrative error. 20
- 18 (1) Where a permit holder, or the officer of a permit holder, is convicted of a relevant offence the court by or before which he is convicted may order forfeiture of the permit.
- (2) Forfeiture under this paragraph shall be on such terms (which may include terms as to suspension) as may be specified by – 25
 - (a) the court which orders forfeiture,
 - (b) a court to which an appeal against the conviction, or against any order made on the conviction, has been or could be made, or
 - (c) the High Court, if hearing proceedings relating to the conviction. 30
- (3) Subject to any express provision made under sub-paragraph (2), a permit shall cease to have effect on the making of a forfeiture order under this paragraph.
- (4) The terms on which forfeiture is ordered under this paragraph shall, in particular, include a requirement that the permit holder deliver to the licensing authority within such time as the order may specify – 35
 - (a) the permit, or
 - (b) a statement explaining why it is not reasonably practicable to produce the permit.
- (5) As soon as is reasonably practicable after making or suspending an order for forfeiture under this paragraph a court shall notify the licensing authority. 40

Transfer of permit

- 19 (1) A person may apply for the transfer of a permit to him if –
 - (a) he is applying for the transfer of an on-premises alcohol licence to him in accordance with – 45

- (i) section 42 of the Licensing Act 2003 (c. 17) (application for transfer), or
- (ii) section 50 of that Act (transfer following death of holder), and
- (b) a permit has effect in respect of the same premises.
- (2) The provisions of this Schedule shall have effect (with any necessary modifications) in relation to an application for the transfer of a permit as they have effect in relation to an application for the issue of a permit. 5
- (3) A person applying for the transfer of a permit to him must supply with his application –
- (a) the permit, or 10
- (b) a statement explaining why it is not reasonably practicable to produce the permit.
- (4) A licensing authority may not approve an application for the transfer of a permit under this paragraph unless the transfer of the on-premises alcohol licence is approved under section 45 of the Licensing Act 2003 (determination of application). 15
- (5) Where a licensing authority refuse an application for the transfer of a permit under this paragraph by virtue of sub-paragraph (4), the provisions of paragraph 6(2)(b) shall not apply to the refusal.
- 20 (1) This paragraph applies where – 20
- (a) the transfer of an on-premises alcohol licence is to be given immediate effect under section 43 of the Licensing Act 2003 (interim effect of transfer application), and
- (b) the applicant has also made an application under paragraph 19.
- (2) A permit in respect of those premises shall have effect during the application period as if the applicant for the transfer were the permit holder. 25
- (3) In this paragraph “application period” has the same meaning as in section 43 of the Licensing Act 2003.

Appeal

- 21 (1) The applicant for or holder of a permit may appeal if the licensing authority – 30
- (a) reject an application for a permit, or
- (b) give a notice under paragraph 16.
- (2) An appeal under this paragraph must be instituted –
- (a) in the magistrates’ court for a petty sessions area in which the premises to which the appeal relates are wholly or partly situated, 35
- (b) by notice of appeal given to the justices’ chief executive, and
- (c) within the period of 21 days beginning with the day on which the appellant or holder receives notice of the decision against which the appeal is brought. 40
- (3) On an appeal the magistrates’ court may –
- (a) dismiss the appeal;
- (b) substitute for the decision appealed against any decision that the licensing authority could have made (with effect from such date and on such transitional or other terms as the court may specify); 45

- (c) restore a permit (with effect from such date and on such transitional or other terms as the court may specify);
 - (d) remit the case to the licensing authority to decide in accordance with a direction of the court;
 - (e) make an order about costs. 5
- (4) Sub-paragraph (1) applies to a decision of a licensing authority following remittal under sub-paragraph (3)(d).

Register

- 22 (1) A licensing authority shall –
- (a) maintain a register of permits issued by the authority together with such other information as may be prescribed, 10
 - (b) make the register and information available for inspection by members of the public at all reasonable times, and
 - (c) make arrangements for the provision of a copy of an entry in the register, or of information, to a member of the public on request. 15
- (2) A licensing authority may refuse to provide a copy of an entry or of information unless the person seeking it pays a reasonable fee specified by the authority.
- (3) The Secretary of State may make regulations about –
- (a) the form of the register; 20
 - (b) the manner in which it is maintained.
- (4) The Secretary of State may make regulations –
- (a) requiring licensing authorities to give to the Commission specified information about permits issued by them;
 - (b) requiring the Commission to maintain a register provided to it under paragraph (a); 25
 - (c) requiring the Commission to grant access to the register to members of the public (without charge);
 - (d) requiring the Commission to make copies of entries available on request, and on payment of a reasonable fee, to members of the public; 30
 - (e) excusing licensing authorities, wholly or partly, from compliance with sub-paragraph (1).

Interpretation

- 23 In this Schedule – 35
- “permit” means a licensed premises gaming machine permit, and
 - “prescribed” means prescribed by regulations made by the Secretary of State.

SCHEDULE 14

Section 284

PRIZE GAMING PERMITS

Interpretation

- 1 In this Schedule –
- “holder”, in relation to a permit, means the person to whom the permit is issued, 5
 - “the licensing authority” –
 - (a) in relation to an application, means the licensing authority to whom the application is made, and
 - (b) in relation to a permit, means the licensing authority who issue it, 10
 - “permit” means a prize gaming permit,
 - “the premises”, in relation to an application or permit, means the premises in respect of which the permit is sought or issued, and
 - “prescribed” means prescribed by regulations made by the Secretary of State except that in paragraphs 5 and 20(2) it means, where the application in question is made to a licensing authority in Scotland, prescribed by regulations made by the Scottish Ministers. 15
- 2 This Schedule shall, in its application to Scotland, have effect as if references to a chief officer of police were references to a chief constable. 20

Making of application

- 3 (1) An application for a permit may be made only by a person who occupies or proposes to occupy the premises.
- (2) If the applicant for a permit is an individual, he must be an adult.
- 4 An application for a permit may not be made if – 25
- (a) a premises licence has effect in respect of the premises, or
 - (b) a club gaming permit has effect in respect of the premises.
- 5 An application for a permit must be made to a licensing authority in whose area the premises are wholly or partly situated.
- 6 An application for a permit must – 30
- (a) be made in such form and manner as the licensing authority may direct,
 - (b) specify the premises,
 - (c) specify the nature of the gaming in respect of which the permit is sought, 35
 - (d) contain or be accompanied by such other information or documents as the licensing authority may direct, and
 - (e) be accompanied by the prescribed fee.

Consideration of application

- 7 Section 152 shall have effect in relation to functions of a licensing authority under this Schedule as it has effect in relation to the functions of a licensing authority under Part 8. 40

- 8 (1) A licensing authority may prepare a statement of principles that they propose to apply in exercising their functions under this Schedule.
- (2) A statement under sub-paragraph (1) may, in particular, specify matters that the licensing authority propose to consider in determining the suitability of an applicant for a permit. 5
- (3) In exercising their functions under this Schedule a licensing authority –
- (a) need not (but may) have regard to the licensing objectives, and
 - (b) shall have regard to any relevant guidance issued by the Commission under section 25.

Determination of application 10

- 9 (1) On considering an application for a permit a licensing authority may –
- (a) grant it, or
 - (b) refuse it.
- (2) A licensing authority may not attach conditions to a permit.
- (3) As soon as is reasonably practicable after granting an application a licensing authority shall issue a permit to the applicant. 15
- (4) As soon as is reasonably practicable after refusing an application a licensing authority shall notify the applicant of –
- (a) the refusal, and
 - (b) the reasons for it. 20
- 10 A licensing authority may grant an application for a permit only if they have consulted the chief officer of police for a police area in which the premises are wholly or partly situated.
- 11 (1) A licensing authority may not refuse an application unless they have –
- (a) notified the applicant of their intention to refuse the application and of their reasons, and 25
 - (b) given the applicant an opportunity to make representations.
- (2) A licensing authority may satisfy sub-paragraph (1)(b) by giving the applicant an opportunity to make –
- (a) oral representations, 30
 - (b) written representations, or
 - (c) both.

Form of permit

- 12 (1) A permit must be in the prescribed form and must specify –
- (a) the person to whom it is issued, 35
 - (b) the nature of the gaming in respect of which it has effect,
 - (c) the premises, and
 - (d) the date on which it takes effect.
- (2) If the person to whom a permit is issued changes his name or wishes to be known by another name –
- (a) he may send the permit to the licensing authority with – 40
 - (i) the prescribed fee, and

	(ii) a request that a new name be substituted for the old name, and	
	(b) the licensing authority shall comply with the request and return the permit to the holder.	
<i>Duration</i>		5
13	A permit shall cease to have effect at the end of the period of ten years beginning with the date specified under paragraph 12(1)(d) unless –	
	(a) it ceases to have effect before that time in accordance with a provision of this Schedule, or	
	(b) it is renewed in accordance with paragraph 18.	10
14	(1) A permit shall lapse if the holder ceases to occupy the premises specified under paragraph 12(1)(c).	
	(2) A permit shall not take effect if on the date specified under paragraph 12(1)(d) the person to whom the permit is issued is not an occupier of the premises specified under paragraph 12(1)(c).	15
15	(1) A permit held by an individual shall lapse if –	
	(a) he dies,	
	(b) he becomes, in the opinion of the licensing authority as notified to the individual, incapable of carrying on the activities authorised by the permit by reason of mental or physical incapacity,	20
	(c) he becomes bankrupt (within the meaning of section 381 of the Insolvency Act 1986 (c. 45)), or	
	(d) sequestration of his estate is awarded under section 12(1) of the Bankruptcy (Scotland) Act 1985 (c. 66).	
	(2) In any other case a permit shall lapse if the holder –	25
	(a) ceases to exist, or	
	(b) goes into liquidation (within the meaning of section 247(2) of that Act).	
	(3) During the period of six months beginning with the date on which a permit lapses under this paragraph the following may rely on it as if it had effect and were issued to them –	30
	(a) the personal representatives of the holder (in the case of an individual holder who dies),	
	(b) the trustee of the bankrupt’s estate (in the case of an individual holder who becomes bankrupt),	35
	(c) the holder’s interim or permanent trustee (in the case of an individual holder whose estate is sequestrated), and	
	(d) the liquidator of the company (in the case of a company holder that goes into liquidation).	
	(4) In relation to premises in Scotland –	40
	(a) sub-paragraph (2)(a) shall have effect as if it referred to a sheriff within whose sheriffdom the premises are wholly or partly situated,	
	(b) sub-paragraph (2)(b) shall not have effect,	
	(c) the reference in sub-paragraph (3) to a magistrate’s court shall have effect as a reference to the sheriff, and	45

- (d) the reference in sub-paragraph (3)(d) to costs shall have effect as a reference to expenses.
- 16 A permit shall cease to have effect if the holder gives to the licensing authority –
- (a) notice of surrender, and 5
 - (b) either –
 - (i) the permit, or
 - (ii) a statement explaining why it is not reasonably practicable to produce the permit.
- 17 (1) Where the holder of a permit is convicted of a relevant offence the court by or before which he is convicted may order forfeiture of the permit. 10
- (2) Forfeiture under this paragraph shall be on such terms (which may include terms as to suspension) as may be specified by –
- (a) the court which orders forfeiture,
 - (b) a court to which an appeal against the conviction, or against any order made on the conviction, has been or could be made, or 15
 - (c) the High Court, if hearing proceedings relating to the conviction.
- (3) Subject to any express provision made under sub-paragraph (2), a permit shall cease to have effect on the making of a forfeiture order under this paragraph. 20
- (4) The terms on which forfeiture is ordered under this paragraph shall, in particular, include a requirement that the holder of the permit deliver to the licensing authority within such time as the order may specify –
- (a) the permit, or
 - (b) a statement explaining why it is not reasonably practicable to produce the permit. 25
- (5) As soon as is reasonably practicable after making or suspending an order for forfeiture under this paragraph a court shall notify the licensing authority.

Renewal

- 18 (1) The holder of a permit may apply to the licensing authority for renewal of the permit. 30
- (2) An application for renewal may not be made –
- (a) before the period of six months ending with the date on which the permit would otherwise expire in accordance with paragraph 13, or
 - (b) after the beginning of the period of two months ending with that date. 35
- (3) The provisions of this Schedule shall have effect (with any necessary modifications) in relation to an application for renewal as they have effect in relation to an application for a permit.
- (4) Paragraph 13 shall have effect in relation to a renewed permit as if the date of renewal were the date specified under paragraph 12(1)(d). 40
- (5) A permit shall not cease to have effect by virtue only of paragraph 13 while –
- (a) an application for renewal of the permit is pending, or

- (b) an appeal against a decision on an application for renewal of the permit is pending.

Maintenance

- 19 The holder of a permit shall keep it on the premises.
- 20 (1) An occupier of premises in respect of which a permit has effect commits an offence if without reasonable excuse he fails to produce the permit on request for inspection by – 5
- (a) a constable, or
- (b) an authorised local authority officer.
- (2) A person guilty of an offence under this paragraph shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale. 10
- 21 (1) Where a permit is lost, stolen or damaged, the holder may apply to the licensing authority for a copy.
- (2) An application under sub-paragraph (1) must be accompanied by the prescribed fee. 15
- (3) A licensing authority shall consider an application under this paragraph and shall grant it if satisfied –
- (a) that the permit has been lost, stolen or damaged, and
- (b) where the permit has been lost or stolen, that the loss or theft has been reported to the police. 20
- (4) As soon as is reasonably practicable after granting an application under this paragraph a licensing authority shall issue a copy of the permit certified by the authority as a true copy.
- (5) A copy of a permit issued under this paragraph shall be treated as if it were the permit. 25

Appeal

- 22 (1) Where a licensing authority reject an application for the issue or renewal of a permit the applicant may appeal.
- (2) An appeal under this paragraph must be instituted – 30
- (a) in the magistrates' court for a petty sessions area in which the premises to which the appeal relates are wholly or partly situated,
- (b) by notice of appeal given to the justices' chief executive, and
- (c) within the period of 21 days beginning with the day on which the appellant receives notice of the decision against which the appeal is brought. 35
- (3) On an appeal a magistrates' court may –
- (a) dismiss the appeal;
- (b) substitute for the decision appealed against any decision that the licensing authority could have made;
- (c) remit the case to the licensing authority to decide in accordance with a direction of the court; 40
- (d) make an order about costs.

- (4) Sub-paragraph (1) applies to a decision of a licensing authority following remittal under sub-paragraph (3)(c) above.

Register

- 23 (1) A licensing authority shall –
- (a) maintain a register of permits issued by the authority together with such other information as may be prescribed, 5
 - (b) make the register and information available for inspection by members of the public at all reasonable times, and
 - (c) make arrangements for the provision of a copy of an entry in the register, or of information, to a member of the public on request. 10
- (2) A licensing authority may refuse to provide a copy of an entry or of information unless the person seeking it pays a reasonable fee specified by the authority.
- (3) The Secretary of State may make regulations about –
- (a) the form of the register; 15
 - (b) the manner in which it is maintained.
- (4) The Secretary of State may make regulations –
- (a) requiring licensing authorities to give to the Commission specified information about permits issued by them;
 - (b) requiring the Commission to maintain a register of the information provided to it under paragraph (a); 20
 - (c) requiring the Commission to grant access to the register to members of the public (without charge);
 - (d) requiring the Commission to make copies of entries available on request, and on payment of a reasonable fee, to members of the public; 25
 - (e) excusing licensing authorities, wholly or partly, from compliance with sub-paragraph (1).

Vehicles and vessels

- 24 A permit may not be issued in respect of a vehicle or vessel (or part of a vehicle or vessel). 30

SCHEDULE 15

Section 290

PRIVATE GAMING AND BETTING

PART 1

GAMING 35

Introduction

- 1 Gaming is private if it satisfies the conditions specified in this Part of this Schedule.

-
- 2 (1) For the purposes of this Part of this Schedule gaming is domestic if it takes place—
- (a) in a private dwelling, and
 - (b) on a domestic occasion.
- (2) For the purposes of this Part of this Schedule gaming is residential if— 5
- (a) it takes place in a hostel, hall of residence or similar establishment which is not administered in the course of a trade or business, and
 - (b) more than half of the participants are residents of the hostel, hall or establishment.
- No charge for participation* 10
- 3 (1) It is a condition of private gaming that no charge is made for participation.
- (2) For the purposes of this paragraph—
- (a) it is immaterial how a charge is described,
 - (b) it is immaterial whether a charge is in money or money's worth,
 - (c) an amount deducted or levied, by a person providing facilities for gaming, from sums staked or won in the course of gaming is a charge for participation in the gaming, 15
 - (d) a charge for admission to premises where gaming takes place shall be treated as a charge for participation in the gaming, and
 - (e) a stake is not a charge for participation. 20
- Equal chance gaming*
- 4 (1) It is a condition of private gaming that it is equal chance gaming.
- (2) But this condition does not apply in relation to domestic or residential gaming.
- Privacy* 25
- 5 It is a condition of private gaming that it does not occur in a place to which the public have access (whether or not on payment).
- PART 2
- BETTING
- Introduction* 30
- 6 Betting is private betting if it is—
- (a) domestic betting, or
 - (b) workers' betting.
- Domestic betting*
- 7 (1) A betting transaction is domestic betting if made on premises in which each party to the transaction lives. 35
- (2) For the purposes of this paragraph a person lives in premises if he habitually resides in any part of the premises (whether or not there are other premises in which he also habitually resides).

Workers’ betting

- 8 A betting transaction is workers’ betting if made between persons each of whom is employed under a contract of employment with the same employer.

SCHEDULE 16

Section 349

5

MINOR AND CONSEQUENTIAL AMENDMENTS

PART 1

MINOR AMENDMENTS

Metropolitan Police Act 1839 (c. 47)

- 1 In section 44 of the Metropolitan Police Act 1839 (refreshment houses)— 10
(a) omit “, or knowingly suffer any unlawful games or any gaming whatsoever therein,” and
(b) in the heading, omit “, or gaming”.

Libraries Offences Act 1898 (c. 53)

- 2 Section 2(3) of the Libraries Offences Act 1898 (offence of annoying library users) shall cease to have effect. 15

Chronically Sick and Disabled Persons Act 1970 (c. 44)

- 3 Section 8B(2)(c) of the Chronically Sick and Disabled Persons Act 1970 (report by Secretary of State on access to betting offices) shall cease to have effect. 20

PART 2

CONSEQUENTIAL AMENDMENTS

Parliamentary Commissioner Act 1967 (c. 13)

- 4 In Schedule 2 to the Parliamentary Commissioner Act 1967 (bodies subject to investigation) for “Gaming Board for Great Britain.” substitute “Gambling Commission.” 25

Superannuation Act 1972 (c. 11)

- 5 In Schedule 1 to the Superannuation Act 1972 (employment to which superannuation schemes may extend) for “Gaming Board for Great Britain.” substitute “Gambling Commission.” 30

Local Government (Miscellaneous Provisions) Act 1976 (c. 57)

- 6 In section 20(9) of the Local Government (Miscellaneous Provisions) Act

	1976 (sanitation) for the definition of “betting office” substitute – ““betting office” means premises, other than a track within the meaning of the Gambling Act 2005, in respect of which a betting premises licence under Part 8 of that Act has effect;”.	
	<i>Race Relations Act 1976 (c. 74)</i>	5
7	In Schedule 1A to the Race Relations Act 1976 (bodies subject to general statutory duty) for “Gaming Board for Great Britain” substitute “Gambling Commission”.	
	<i>London Local Authorities Act 1995 (c. x)</i>	
8	In section 14 of the London Local Authorities Act 1995 (interpretation of licensing provisions) for the provision excluding premises licensed under Part II of the Gaming Act 1968 substitute: “does not include premises in respect of which a casino premises licence, bingo premises licence, adult gaming centre premises licence, family entertainment centre premises licence or betting premises licence under Part 8, or a family entertainment centre gaming permit under section 241, of the Gambling Act 2005 has effect;”.	10 15
	<i>Employment Rights Act 1996 (c. 18)</i>	
9	For section 233 of the Employment Rights Act 1996 (betting workers) substitute –	20
	“233 Betting workers	
	(1) In this Act “betting worker” means an employee who under his contract of employment is or may be required to do betting work.	
	(2) In this Act “betting work” means –	
	(a) work which consists of or includes dealing with betting transactions at a track in England or Wales and which is carried out for a person who holds a general betting operating licence, a pool betting operating licence or a horse- race pool betting operating licence, and	25
	(b) work on premises in respect of which a betting premises licence has effect at a time when the premises are used for betting transactions.	30
	(3) In subsection (2) “betting transactions” includes the collection or payment of winnings.	
	(4) Expressions used in this section and in the Gambling Act 2005 have the same meaning in this section as in that Act.	35
	(5) In this Act –	
	“notice period”, in relation to an opted-out betting worker, has the meaning given by section 41(3),	
	“opted-out”, in relation to a betting worker, shall be construed in accordance with section 41(1) and (2),	40
	“opting-in notice”, in relation to a betting worker, has the meaning given by section 36(6),	

“opting-out notice”, in relation to a betting worker, has the meaning given by section 40(2), and
“protected”, in relation to a betting worker, shall be construed in accordance with section 36(1) to (5).”

Police Act 1997 (c. 50) 5

- 10 In section 115 of the Police Act 1997 (enhanced criminal record certificates) for subsection (5)(a) to (c) substitute—
“(a) a process under the Gambling Act 2005”.

Terrorism Act 2000 (c. 11)

- 11 In paragraph 4 of Schedule 3A to the Terrorism Act 2000 (regulated sector and supervisory authorities) for “Gaming Board for Great Britain” substitute “Gambling Commission”. 10

Regulation of Investigatory Powers Act 2000 (c. 23)

- 12 In paragraph 20A of Schedule 1 to the Regulation of Investigatory Powers Act 2000 (relevant public authorities) for “Gaming Board for Great Britain” substitute “Gambling Commission”. 15

Postal Services Act 2000 (c. 26)

- 13 In section 7 of the Postal Services Act 2000 (exceptions to the restrictions on provision of postal services) for the definition of “authorised promoter” substitute— 20
““authorised promoter” means—
(a) the holder of a pool betting operating licence under Part 5 of the Gambling Act 2005,
(b) a person authorised under section 91(3) of that Act to do anything on behalf of the holder of a pool betting operating licence, and 25
(c) an associate, within the meaning of section 184 of the Consumer Credit Act 1974 (c. 39), of a person within paragraph (a) or (b).”.

Freedom of Information Act 2000 (c. 36)

- 14 In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (public authorities to which the Act applies) for “Gaming Board of Great Britain” substitute “Gambling Commission”. 30

Criminal Justice and Police Act 2001 (c. 16)

- 15 (1) In Schedule 1 of the Criminal Justice and Police Act 2001 (seizure powers to which extending provision of section 50 applies) — 35
(a) paragraphs 6, 11 and 20 cease to have effect,
(b) at the end of Part 1 (renumbering the entry for the Licensing Act 2003 as paragraph 73E) add —

“*Gambling Act 2005*

- 73F The powers conferred by section 311 of the Gambling Act 2005 (inspection powers).” 40

- (c) paragraphs 89, 93 and 97 cease to have effect, and
 (d) at the end of Part 3 (renumbering the entry for the Licensing Act 2003 as paragraph 111) add –

“Gambling Act 2005

112 The powers conferred by section 311 of the Gambling Act 2005 (inspection powers).” 5

- (2) For the purposes of the amendments made by this paragraph, the powers in section 311(1)(d), (e) and (f) are powers of seizure.

Proceeds of Crime Act 2002 (c. 29)

- 16 In Part 2 of Schedule 9 to the Proceeds of Crime Act 2002 (supervisory authorities) in paragraph 4(g) for “Gaming Board for Great Britain” substitute “Gambling Commission”. 10

Note

- 17 The amendments made by this Schedule are without prejudice to the generality of paragraph 4 of Schedule 5. 15

SCHEDULE 17

Section 349

REPEALS

<i>Enactment</i>	<i>Repeal</i>	
Gaming Act 1710 (c. 19)	The whole Act.	
Gaming Act 1738 (c. 28)	The whole Act.	5
Gaming Act 1835 (c. 41)	The whole Act.	
Metropolitan Police Act 1839 (c. 47)	The words “, or knowingly suffer any unlawful games or any gaming whatsoever therein,”.	
Gaming Act 1845 (c. 109)	The whole Act.	
Gaming Act 1892 (c. 9)	The whole Act.	10
Libraries Offences Act 1898 (c. 53)	Section 2(3).	
Betting, Gaming and Lotteries Act 1963 (c. 2)	The whole Act.	
Police Act 1964 (c. 48)	In Schedule 9, the entry for the Betting, Gaming and Lotteries Act 1963.	15
Local Government Act 1966 (c. 42)	In Schedule 3, paragraph 23.	
Theft Act 1968 (c. 60)	In Schedule 2, the entry for the Gaming Act 1845.	20
Gaming Act 1968 (c. 65)	The whole Act.	
Decimal Currency Act 1969 (c. 19)	In Schedule 2, paragraph 17.	
Family Law Reform Act 1969 (c. 46)	In Schedule 1, the entry for the Betting, Gaming and Lotteries Act 1963.	25
Chronically Sick and Disabled Persons Act 1970 (c. 44)	Section 8B(2)(c).	
Courts Act 1971 (c. 23)	In Schedule 6, paragraph 6. In Schedule 9—	
	(a) the entry for the Betting, Gaming and Lotteries Act 1963, and (b) the entry for the Gaming Act 1968.	30
Local Government Act 1972 (c. 70)	In Schedule 29, paragraph 13.	
Gaming (Amendment) Act 1973 (c. 12)	The whole Act.	35
Lotteries Act 1975 (c. 58)	The whole Act.	
Lotteries and Amusements Act 1976 (c. 32)	The whole Act.	
Criminal Law Act 1977 (c. 45)	In Schedule 1, paragraph 17. In Schedule 6, the entry for the Gaming Act 1968. In Schedule 12, the entry for the Gaming Act 1968.	40

<i>Enactment</i>	<i>Repeal</i>	
Gaming (Amendment) Act 1980 (c. 8)	The whole Act.	
Local Government, Planning and Land Act 1980 (c. 65)	In Schedule 8, the entry for the Lotteries and Amusements Act 1976.	5
Supreme Court Act 1981 (c. 54)	In section 28(2)(b), the references to the Betting, Gaming and Lotteries Act 1963 and the Gaming Act 1968.	
Betting and Gaming Duties Act 1981 (c. 63)	Sections 9 to 9B.	10
Gaming (Amendment) Act 1982 (c. 22)	The whole Act.	
Criminal Justice Act 1982 (c. 48)	In Schedule 3, the entry for the Betting, Gaming and Lotteries Act 1963.	
Lotteries (Amendment) Act 1984 (c. 9)	The whole Act.	15
Betting, Gaming and Lotteries (Amendment) Act 1984 (c. 25)	The whole Act.	
Police and Criminal Evidence Act 1984 (c. 60)	In Schedule 6, paragraph 12.	20
Companies Consolidation (Consequential Provisions) Act 1985 (c. 9)	In Schedule 3, the entry for the Betting, Gaming and Lotteries Act 1963.	
Betting, Gaming and Lotteries (Amendment) Act 1985 (c. 18)	The whole Act.	25
Gaming (Bingo) Act 1985 (c. 35)	The whole Act.	
Local Government Act 1985 (c. 51)	In Schedule 8, paragraph 6.	
Social Security Act 1985 (c. 53)	Section 25.	
Gaming (Amendment) Act 1986 (c. 11)	The whole Act.	30
Gaming (Amendment) Act 1987 (c. 11)	The whole Act.	
Companies Act 1989 (c. 40)	In Schedule 10, paragraph 25.	
Gaming (Amendment) Act 1990 (c. 26)	The whole Act.	35
Bingo Act 1992 (c. 10)	The whole Act.	
Finance Act 1993 (c. 34)	Section 37.	
National Lottery etc. Act 1993 (c. 39)	Section 2. Section 18(1) to (4). Section 45. Section 46(3). Sections 47 to 59. In Schedule 1, paragraphs 1 and 2. Schedules 7 to 9.	40 45

<i>Enactment</i>	<i>Repeal</i>	
Local Government (Wales) Act 1994 (c. 19)	In Schedule 16, paragraph 50.	
Coal Industry Act 1994 (c. 21)	Section 68(2)(d)(iv). In Schedule 9, paragraph 12.	5
Deregulation and Contracting Out Act 1994 (c. 40)	Section 20.	
Civil Evidence Act 1995 (c. 38)	In Schedule 1, paragraph 4.	
Employment Rights Act 1996 (c. 18)	In Schedule 1, paragraph 9.	10
Access to Justice Act 1999 (c. 22)	In Schedule 13, paragraphs 32 to 35.	
Financial Services and Markets Act 2000 (c. 8)	In section 412(1) – (a) in paragraph (a), the words “section 18 of the Gaming Act 1845, section 1 of the Gaming Act 1892 or”, and (b) paragraph (b).	15
Criminal Justice and Police Act 2001 (c. 16)	Section 63(2)(d). In Schedule 1, paragraphs 6, 11, 20, 89, 93 and 97.	
Licensing Act 2003 (c. 17)	In Schedule 6, paragraphs 29 to 31, 48 to 52 and 62 to 66.	20
Courts Act 2003 (c. 39)	In Schedule 8, paragraphs 113 to 115 and 132.	
Criminal Justice Act 2003 (c. 44)	In Schedule 25, paragraph 54.	

Note

The repeal of section 2 of the National Lottery etc. Act 1993 shall not extend to Northern Ireland. 25

SCHEDULE 18

Section 351

TRANSITIONAL

PART 1

TRANSITIONAL CONTINUATION OF OLD LICENCES, &c. 30

Introduction

1 (1) In this Part a reference to a commencement order is a reference to an order under section 351(1).

(2) This Part is without prejudice to the generality of section 348(1)(c).

Transitional continuation of licences, &c. 35

2 A commencement order may –

- (a) provide for a licence or other document issued under an enactment repealed by this Act to have such effect as the order may specify after the commencement of the repeal until a time specified by or determined in accordance with the order;
- (b) provide for the application of this Act, with any specified modifications, in relation to a licence or document to which paragraph (a) applies; 5
- (c) disapply, or modify the application of, a provision of this Act in relation to specified things done in reliance on a licence or document to which paragraph (a) applies. 10

Transitional protection for casinos below minimum licensable size

- 3 A commencement order may –
- (a) disapply section 172(1) in respect of premises that are in use, or could lawfully be used, for the operation of a casino (within the meaning of section 7(1) to (3)) when Part 8 of this Act comes into force; 15
 - (b) provide for the application of this Act, with any specified modifications, in relation to premises of that kind;
 - (c) disapply, or modify the application of, a provision of this Act in relation to specified things done on or in relation to premises of that kind. 20

References to procedures under this Act

- 4 A commencement order may include provision for a reference in this Act or in another enactment to anything done under or by virtue of this Act to be taken, for such transitional purposes as may be specified, as including a reference to a thing done under or by virtue of an enactment repealed by this Act. 25

PART 2

ADVANCE AND INTERIM APPLICATIONS, AND CONVERSION

Advance applications

- 5 In this Schedule a reference to an advance application for a licence or permit is a reference to an application made in advance of the commencement of the offence or other provision of this Act in connection with which the licence or permit is required. 30
- 6 The Secretary of State may by order –
- (a) make provision about the making, consideration or determination of an advance application for a licence or permit; 35
 - (b) make provision about the effect of a licence or permit issued in response to an advance application;
 - (c) require the person to whom an advance application for a licence or permit under this Act is made to determine the application within a specified period; 40
 - (d) make provision for an advance application for a licence or permit under this Act to be treated as granted (for such purposes, with such effect and for such period as the order may specify) if not determined in accordance with a requirement imposed under paragraph (c). 45

- 7 An order under paragraph 6—
- (a) may make provision about advance applications generally or only if made before a specified date or during a specified period, and
 - (b) may make different provision in relation to different classes of advance application or different classes of activity. 5

Interim applications

- 8 The Secretary of State may by order make provision for or about the grant or renewal of a licence or other document, or a registration, under an enactment to be repealed by this Act during a specified period between the passing of this Act and the commencement of the repeal. 10

Conversion of existing licences, &c.

- 9 The Secretary of State may by order—
- (a) make provision for the conversion of a licence or other document under an enactment to be repealed by this Act into a licence or permit under this Act (which may, in particular, include provision requiring a person to whom an advance application is made to grant it in specified circumstances or to a specified extent); 15
 - (b) make provision for the conversion of registration under an enactment to be repealed by this Act into registration under this Act or into possession of a licence or permit under this Act (which may, in particular, include provision requiring a person to whom an advance application is made to grant it in specified circumstances or to a specified extent). 20
- 10 An order under paragraph 9 may provide for conversion of licences, other documents or registrations generally or by reference to— 25
- (a) the use made of a licence, document or registration,
 - (b) the age or duration of a licence, document or registration, or
 - (c) any other matter.

Orders: general

- 11 An order under this Part— 30
- (a) may include provision modifying the effect of a provision of this Act or the effect of a provision to be repealed by this Act, and
 - (b) may apply or replicate a provision of this Act with or without modification (including a provision conferring a discretion or providing for the payment of a fee). 35

Gambling Bill

A

B I L L

To make provision about gambling.

Brought from the Commons on 25th January 2005

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