

Gambling Act 2005

Information Sheet

Betting Premises - Tracks

Background

Tracks are sites (including horse racecourses and dog tracks) where races or other sporting events take place. Betting is a major gambling activity on tracks, to the in the form of pool betting (often known as the “totalisator” or “tote”), and also general betting, often known as “fixed-odds” betting.

There is no special class of betting premises licence for a track, but the Act does contain rules which apply specifically to premises licences granted in respect of a track. Under the previous law, licensing authorities already held responsibility for licensing dog tracks (under the Betting, Gaming and Lotteries Act 1963). The 2005 Act continues this responsibility, and extends it to other tracks and racecourses. Premises licences under Part 8 of the Act are the principal form of authorisation for all betting on tracks.

Betting is often divided into “on-course” and “off-course” in relation to tracks.

- The “on-course” betting operator is one who comes onto the track, temporarily, while races are taking place, and operates at the track-side. On-course betting operators tend to offer betting only on the events taking place on the track that day.
- Off-course betting operators may, in addition to premises away from the track, operate self-contained betting facilities for off-course betting (on other events, not just those taking place on the track), although they normally operate only on race days.
- In addition, pool betting can take place on tracks, but only on certain types of track, and the people who may run it are limited.

These three types of betting on tracks are discussed in more detail below:

Premises licences in relation to tracks

Premises licences in relation to tracks are unusual in that, because the track operator does not need to have an operating licence issued by the Gambling Commission (although they may have one), the premises licence will need to contain requirements on the premises licence holder about his responsibilities in relation to the proper conduct of betting.

The conduct of the betting on tracks will be regulated primarily through the operating licences that the persons offering betting on the track will need to hold (whether a general betting operating licence, or a pool betting operating licence). But the track operator will have a role to play in ensuring, for example, that the betting areas are properly administered, and licensing authorities will have an important role in regulating tracks, because of the particular rules surrounding on-course betting, and the sub-division of the track into different areas.

Most of the applications received by authorities for betting premises licences for tracks are likely to relate to horse racecourses, and dog tracks. However, it is possible for other sporting venues where races and sporting events take place to obtain a track premises licence.

The type of betting that can be offered on such other tracks is limited. Pool betting cannot be offered, and there is no tradition of “on-course” betting rings at, for example, football grounds. But there is no legal reason why, for example, an athletics track or sports stadium should not apply for a track betting licence to cover the whole track, and authorities will need to consider such applications on their own merits.

It is the view of the Gambling Commission that it would be better for operators of self-contained units on tracks to seek an ordinary betting premises licence.

Tracks also benefit from rules permitting low-level, infrequent betting activity, under the provisions for occasional use notices.

Tracks are the only premises which may be subject to more than one premises licence, provided each licence relates to a specified area of the track.

The Act sets out that there can be a primary (betting premises) licence for the track and, in addition, subsidiary premises licences for other gambling activities may be issued. This will allow racecourses and other track venues to develop leisure facilities which offer a range of gambling activities where this meets the principles for granting premises licences.

Special rules apply to applicants for a premises licence in relation to a track. Most importantly the applicant need not hold an operating licence. That is because, unless the occupier of the track wishes to offer pool betting (or general betting) facilities himself (for which he will need a licence), the betting that is provided upon the track will not be provided by him, but will be provided by other operators who come on-course. Since those people will require the necessary operating licences, the Act allows the track operator to obtain a premises licence without also having to hold an operating licence. This track premises licence then authorises anyone upon the premises with an operating licence to offer betting facilities.

The secondary aspect to this rule is that each individual operator who comes onto the track on race days does not need to hold a premises licence. Instead, he will be covered by the umbrella of the premises licence held by the track operator.

Occasional use notices

Occasional use notices can only be issued in relation to tracks and may be relied upon for the provision of betting facilities for no more than 8 days in a calendar year. No gaming machines may be provided by virtue of an occasional use notice.

Gaming machines

A betting premises licence in respect of a track does not give any automatic entitlement to use gaming machines. That is because this type of premises licence can be held without any corresponding operating licence. However, by virtue of section 172(9) of the Act, if the track operator who holds the premises licence also holds a pool betting operator licence then up to four gaming machines may be sited on the track of Categories B2 to D.

The Commission will offer guidance in due course where such machines may be located on tracks and any special considerations that should apply in relation to, for example, to supervision of the machines and preventing children from playing them.

Betting machines

Section 235(2)(c) provides that a machine is not a gaming machine if it is designed or adapted for use to bet on future real events. Some betting premises may make available machines that accept bets on live events, such as horse racing, as a substitute for placing a bet over the counter. These “betting machines” are not gaming machines and therefore neither count towards the maximum permitted number of gaming machines, nor have to comply with any stake or prize limits. Such betting machines merely automate the process which can be conducted in person and therefore do not require regulation as a gaming machine.

Section 181 contains an express power for licensing authorities to restrict the number of betting machines, their nature and the circumstances in which they are made available by attaching a licence condition to a betting premises licence.

In relation to betting premises away from tracks, when considering whether to impose a condition to restrict the number of betting machines in particular premises, the licensing authority, amongst other things, should take into account the following:

- size of the premises; and
- the ability of staff to monitor the use of the machines by vulnerable people.

Similar considerations will apply in relation to tracks, where the potential space for such machines may be considerable, bringing with it significant problems in relation to the proliferation of such machines, the ability of track staff to supervise them if they are scattered around the track and the ability of the track operator to comply with the law and prevent children betting on the machine. Licensing authorities will want to consider restricting the number and location of betting machines, in the light of the circumstances of each application for a track betting premises licence.

Pool betting

Pool betting may be offered at:

- a horse racecourse by the Tote; and
- at a dog track by the holder of the premises licence for the track (who will invariably be the occupier of the track).

For the time being these are the only allowances for pool betting on tracks. The Commission will provide guidance if the Government amends these rules in the future.

If the holder of a premises licence for a dog track wishes to offer pool betting, they must apply to the Commission for a pool betting operating licence. This is a change from the 1963 Act, under which local authorities are responsible for the regulation of the totalisator at dog tracks.

Self-contained betting offices on tracks

In general, the rules that apply to betting premises away from tracks will apply to self-contained betting premises on tracks. The Commission will issue guidance about how such premises should be delineated, both to make it clear to the public that they are entering a “betting office” and to keep out children and young persons.

As the betting premises licence for a track could authorise the entire premises to be used for providing betting facilities, this could mean that no separate betting premises licence would be necessary for the self-contained premises. The effect of this approach would be that the track operator was responsible for premises licence issues relating to the self-contained premises, rather than accountability resting with the betting operator providing facilities within it.

If the self-contained premises were the subject of a separate premises licence, that licence would have its own, directly imposed conditions. It would also allow the premises to use up to four gaming machines (in categories B2 to D).

The Gambling Commission considers that it would be preferable for all self-contained premises operated by off-course betting operators on tracks to be the subject of separate premises licences. This would ensure that there was clarity between the respective responsibilities of the track operator and the off-course betting operator running a self-contained unit on the premises.

Access by children

Under the Act, the starting point for access to a track by children and young persons is that all those under the age of 18 must be excluded from any areas where facilities for betting are provided, and any area where Category B or C gaming machines are located. This is a condition of all track licences, imposed by section 182 of the Act.

However, the Act makes special dispensation from this rule for dog tracks and horse racecourses, on days when racing takes place, in relation to the areas used for betting. This allows families to attend the track or racecourse, and children to be permitted into areas, such as the betting ring, where betting takes place. There is no lifting on the rule on race days in relation to machines, and it is therefore important that machines are located, at all times, in areas where children are excluded from entry.

Where a separate premises licence for betting premises is granted upon track premises, for self-contained betting facilities, the terms of that separate licence will govern the access of children and location of machines.

Betting premises licence – Tracks - conditions

The Act provides that conditions may be attached to premises licences. Conditions may be attached in the following ways:

- Automatically, having been set out in the Act itself;
- Through statutory regulations made by the Secretary of State;
- By the Commission via operating and personal licences;
- By local Licensing Authorities via the premises licence.

Conditions may also be general in nature (e.g. they attach to all licences or all licences of a particular class) or they may be specific to a particular licence.

Conditions under the Act

Particular sections of the Act provide for certain conditions to be attached automatically to premises licences. The Secretary of State may make regulations requiring these conditions to be set out in the licence. There is no discretion to decide not to include them or to modify them.

As mentioned above, section 172 deals with gaming machines and provides for premises licences to permit a specified number of machines of particular categories in each type of gambling premises.

Section 173 authorises the holder of a casino premises licence or a betting premises licence to make facilities available for betting on virtual events. This is separate from betting on virtual events by means of a gaming machine. These are person-to-person transactions, involving virtual images that are not displayed on a machine.

Section 176 makes it a condition of the premises licence that the licensee must comply with the code of practice issued under this section.

Section 179 provides that a track betting premises licence may not authorise pool betting to take place other than in respect of dog or horse racing and only where the acceptance of bets is by the holder of the betting premises licence, or in accordance with arrangements made by him. In the case of dog racing, this preserves the

existing arrangements at dog tracks where the totalisator is operated by or on behalf of the occupier of the track.

Section 183 of the Act applies to all premises licences. It attaches the condition to the premises licence that facilities for gambling must not be provided on Christmas Day. In this context, "Christmas Day" covers the period of 00:01 hours on 25 December until 00:00 hours on 26 December.

Conditions under statutory regulations

These types of conditions fall into two categories:

- Mandatory conditions under section 167 of the Act. This section provides for the Secretary of State to set out in regulations conditions that must be attached to premises licences.
- Default conditions under section 168 of the Act. This section provides for the Secretary of State to make default conditions, which will apply unless the local Licensing Authority decides to exclude them using its powers under section 169 of the Act.

Attached as Appendix C is a summary of the mandatory conditions outlined in the statutory order "The Gambling Act 2005 (Mandatory and Default Conditions) (England and Wales) Regulations 2007" in so far as they relate to track betting premises.

Role of Licensing Authorities

Mandatory conditions

Where mandatory conditions have been set by the Secretary of State, it is intended that no further regulation in relation to that matter is required. Therefore it is considered extremely unlikely that Licensing Authorities will need to impose individual conditions imposing a more restrictive regime in relation to matters that have already been dealt with by mandatory conditions. Licensing Authorities should only consider doing so where there are regulatory concerns of an exceptional nature and any additional licence conditions must relate to the licensing objectives.

Default conditions

Licensing Authorities have more flexibility in relation to default conditions. A Licensing Authority may exclude a default condition, and substitute it with one that is either more or less restrictive.

It should be noted however that default conditions are intended to be the basic industry norm. While, having regard to the requirements of section 153 of the Act ¹, the Commission would expect default conditions to be excluded and replaced with less rigid conditions on a relatively regular basis, Licensing Authorities should ensure that they have clear regulatory reasons for excluding default conditions and replacing them with more restrictive ones.

Conditions that may not be attached by Licensing Authorities

The Act sets out certain matters that may not be the subject of conditions. The relevant sections are:

- **Section 169(4)** – Prohibits the Licensing Authority from imposing a condition on the premises licence which makes it impossible to comply with an operating licence condition;
- **Section 172(10)** – Provides that conditions may not relate to gaming machine categories, numbers, or method of operation;
- **Section 170** – Provides that membership of a club or body cannot be required by attaching a condition to the premises licence. The Act specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated; and
- **Section 171** – Prevents an authority imposing conditions in relation to stakes, fees, winnings or prizes.

¹ Section 153 states that the Licensing Authority should aim to permit the use of premises for gambling, subject to its view as to whether to do so is:

- a) In accordance with relevant codes of practice issued by the Gambling Commission;
- b) In accordance with the guidance issued by the Gambling Commission;
- c) Reasonably consistent with the licensing objectives; and
- d) In accordance with the three year statement of licensing principles published by the local authority.

Table A – Categories of gaming machines

Category of machine	Maximum Stake	Maximum Prize
A	Unlimited	Unlimited
B1	£2	£4,000
B2	£100	£500
B3	£1	£500
B4	£1	£250
C	50p	£35
D	10p or 30p when non-monetary prize	£5 cash or £8 non-monetary prize

Table B – Maximum number of machines by premises type

Premises Type	Machine Category						
	A	B1	B2	B3	B4	C	D
Regional casino (machine/table ratio of 25-1 up to maximum)	Maximum of 1250 machines Any combination of machines in categories A to D within the total limit of 1250 (subject to table ratio)						
Large casino (machine/table ratio of 5-1 up to maximum)		Maximum of 150 machines Any combination of machines in categories B to D within the total limit of 150 (subject to table ratio)					
Small casino (machine/table ratio of 2-1 up to maximum)		Maximum of 80 machines Any combination of machines in categories B to D within the total limit of 80 (subject to table ratio)					
Pre-2005 Act casinos (no machine/table ratio)		Maximum of 20 machines categories B to D OR C or D machines instead					
Betting premises & tracks occupied by Pool Betting			Maximum of 4 machines categories B2 to D				
Bingo Premises				Maximum of 4 machines in category B3 or B4		No limit C or D machines	
Adult gaming centre				Maximum of 4 machines in category B3 or B4		No limit C or D machines	

Premises Type	Machine Category						
	A	B1	B2	B3	B4	C	D
Family entertainment centre (with premises licence)						No limit C or D machines	
Family entertainment centre (with permit)							No limit on category D machines
Clubs or miners' welfare institutes with permits					Maximum of 3 machines in categories B4 to D		
Qualifying alcohol licensed premises						1 or 2 machines of category C or D automatic upon notification	
Qualifying alcohol licensed premises with gaming machine permit						Number as specified on permit	
Travelling fair							No limit on category D machines
	A	B1	B2	B3	B4	C	D

Appendix B

Premises:	Direct internal access permitted to:	No direct internal access permitted to:
Casino		Betting shop Bingo hall AGC FEC Club Pub
Betting shop	Track	Casino Bingo hall AGC FEC Club Pub
Track	Betting shop Pub Bingo hall FEC Club	Casino AGC
Bingo hall	FEC Pub Club	Casino Betting shop AGC
AGC		Casino Betting shop Bingo Hall FEC Club Pub
FEC	Bingo hall Club Pub	Casino Betting shop AGC
Club	FEC Pub	Casino Betting shop Bingo hall AGC
Pub	FEC Club Pub	Casino Betting shop AGC

The Gambling Act 2005 (Mandatory and Default Conditions) (England and Wales) Regulations 2007

Mandatory conditions to be attached to every premises licences

The following conditions shall be attached as mandatory conditions to every premises licence:

- 1) The summary of the terms and conditions of the premises licence issued under section 164(1)(c) of the 2005 Act shall be displayed in a prominent place within the premises;
- 2) The layout of the premises shall be maintained in accordance with the plan;
- 3) The premises shall not be used for:-
 - (a) the sale of tickets in a private lottery or customer lottery,² or
 - (b) the sale of tickets in any other lottery in respect of which the sale of tickets on the premises is otherwise prohibited.³

Mandatory conditions to be attached to Track betting premises licences

- 1) No customer shall be able to access the premises directly from any other premises in respect of which one of the following premises licences has effect:-
 - (a) a casino premises licence;
 - (b) an adult gaming centre premises licence.
- 2) A notice stating that no person under the age of 18 is permitted to bet on the premises shall be displayed in a prominent place at every public entrance to the premises.

² A "private lottery" means a private society lottery or a work lottery within the meaning of paragraphs 10 and 11 of Schedule 11 to the 2005 Act; and

A "customer lottery" has the same meaning as in Part 3 of Schedule 11 to the 2005 Act.

³ See the National Lottery Regulations 1994 (S.I 1994/189) which prohibits the sale of National Lottery tickets in specified premises licensed for gambling activities.

- 3) The terms on which a bet may be placed must be displayed in a prominent place within the premises to which customers wishing to use facilities for betting have unrestricted access.
- 4) The premises licence holder shall make arrangements to ensure that betting operators who are admitted to the premises for the purpose of accepting bets:-
 - (a) will be operating under a valid operating licence; and
 - (b) are enabled to accept such bets in accordance with:-
 - (i) the conditions imposed under sections 92 (general betting operating licence) or 93 (pool betting operating licence) of the 2005 Act, or
 - (ii) an authorisation under section 94 (horse-race pool betting operating licence) of that Act.
- 5) The premises licence holder shall make arrangements to ensure that reasonable steps are taken to remove from the premises any person who is found to be accepting bets on the premises otherwise than in accordance with the 2005 Act.
- 6) Any ATM made available for use on the premises shall be located in a place that requires any customer who wishes to use it to cease gambling in order to do so.

Mandatory conditions attached to track premises licences in respect of premises that are dog racing tracks.

- 1) A totalisator on the premises shall only be operated:-
 - (a) while the public are admitted to the premises for the purpose of attending dog races and no other sporting events are taking place on the premises; and
 - (b) for effecting with persons on the premises betting transactions on dog races taking place on the premises.
- 2) - (1) At any time during which the totalisator is being lawfully used on the premises:-
 - (a) no betting operator or betting operator's assistant shall be excluded from the premises by reason only of the fact that he proposes to accept or negotiate bets on the premises; and
 - (b) there shall be made available on the premises space for betting operators and betting operators' assistants where they can conveniently accept and negotiate bets in connection with dog races run on the premises on that day.

(2) This paragraph is without prejudice to section 180 (pool betting on dog races) of the 2005 Act.

- 3) For the purposes of the Part, “totalisator” means the apparatus for betting known as the totalisator or pari mutual, or any other machine or instrument of betting of a like nature, whether mechanically operated or not.

Default conditions attached to all track premises licences

- 1) Subject to paragraph 2, no facilities for gambling shall be provided on the premises between the hours of 10 pm on one day and 7 am on the next day.
- 2) The prohibition in paragraph 1 does not apply on days when a sporting event is taking place on the premises, in which case gambling transactions may take place at any time during that day.

Table 1 – Contact details for the Licensing Authority:	
East Hampshire District Council Licensing Office PO Box 176 Penns Place Petersfield Hampshire GU31 4WT	Direct Dial No: 01730 234389 Fax No: 01730 234389 Email: Licensing@easthants.gov.uk DX No: EHDC 100403 Petersfield

Data Protection

Please note that the Council may provide information submitted on any application form for a licence or permission to other statutory authorities, such as the Department of Culture, Media and Sport (DCMS), Her Majesty’s Revenue and Customs (HMRC) and, in the case of application under the Gambling Act 2005, the Gambling Commission.