

# Gambling Act 2005



## Information Sheet

### Casinos

#### Background

Section 7(1) of the Act states that “a casino is an arrangement whereby people are given an opportunity to participate in one or more casino games”. Casino games are defined by the Act to mean a game of chance which is not equal chance gaming. Equal chance gaming is gaming which does not involve playing or staking against a bank, and where the chances are equally favourable to all participants.

The Act gives the Gambling Commission power through conditions attached to operating licences to restrict the types of casino games that may be made available. Further guidance on casino games is available by the Commission on its website: [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk).

Under the Act, licensing authorities in England and Wales have been given the new role of issuing premises licences for casinos and monitoring those licences.

#### New casinos

Section 174 of the Act specifies the three categories of casino premises licence that may be issued under the Act. These relate to the categories of casino provided for by section 7(5) of the Act. Section 175 sets out the initial limits for each category of casino premises licence. These are:

- No more than one regional casino premises licence. The regional casino will have a minimum total customer area of 5,000 square metres. It will be able to offer casino games, bingo and/or betting and up to 1,250 Category A (unlimited jackpot) and Category B1 gaming machines;
- No more than eight large casino premises licences. Large casinos will have a minimum total customer area of 1,500 square metres. This category of casino will be able to offer casino games, bingo and/or betting and up to 150 Category B1 gaming machines;
- No more than eight small casino premises licences. Small casinos will have a minimum total customer area of 750 square metres. A small casino will be able to offer casino games, betting and up to 80 Category B1 gaming machines.

The Secretary of State has appointed an independent Casino Advisory Panel to advise the Government on the areas in which the new types of casino created by the Act will be located.

Once Parliament has approved the areas for the new casinos, the licensing authorities for those areas will be able to begin the process of issuing new casino premises licences.

East Hampshire District Council has not applied for approval for one of the new category of casinos.

## **Existing casinos (with preserved rights under schedule 18 of the Act)**

Casino operators with licences granted under the 1968 Act will be eligible to be granted a casino premises licence under “grandfathering” arrangements. The monitoring of these licences will be undertaken by licensing authority officers.

## **Casino premises licence 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. It is intended to cover facilities such as Portman Park, which is currently provided in some betting shops. These are person-to-person transactions, involving virtual images that are not displayed on a machine.

Section 174 authorises the holder of a casino licence to make available the following types of gambling:

- Casino games (which will be authorised by the Commission; permitted games will be listed on their website);
- Equal chance games;
- Betting (but not in pre-2005 Act casinos with grandfather rights and only with a betting operating licence); and
- Bingo (but only in large casinos and the regional casino, and only with a bingo operating licence).

Section 176 is relevant to casino premises only. It requires the Commission to issue at least one code of practice about access to casino premises for children and young persons.

Section 177 is relevant to casino premises licences and bingo premises licences. It attaches a condition that prohibits the licensee from:

- Giving credit in connection with the gambling taking place on the premises; or
- Participating in, arranging, permitting or knowingly facilitating the giving of credit in connection with the gambling on the premises.

However, section 177 does not prevent the licensee from permitting the installation of cash dispensers (ATMs) on the premises.

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 casino 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<sup>1</sup>, 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;

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<sup>1</sup> 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.

- **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.

## Gaming machines

### Background

Section 235 of the Act sets out the definition of a gaming machine. That definition is wider than those included in previous gaming legislation and covers all types of gambling activity which can take place on a machine, including betting on virtual events. However, the following should be noted:

- There remains a distinction between skill machines and gaming machines. Skill machines are unregulated; and
- Section 235 contains important exemptions for equipment that is not to be considered a gaming machine, even when gambling can be performed on it. For example, a home PC is not to be classed as a gaming machine, even though someone can access remote gambling on it.

### Gambling Commission

The Commission will license manufacturers and suppliers of gaming machines and will make it a condition of operating licences that machines are obtained only from licensed suppliers. The Licensing Authority has no power to attach a similar condition to permits for clubs, alcohol-licensed premises or family entertainment centres, but permit holders will be advised in guidance from the Commission to obtain machines only from licensed suppliers.

The Commission will set technical standards relating to the way in which each category of machine will operate. The Commission also has the power to test gaming machines, both before they are supplied and in operation in premises, to ensure that they are operating as advertised.

If a Licensing Authority has concerns about the manufacture, supply or repair of machines or the manner in which they are operating, these shall be brought to the attention of the Commission.

## **Numbers and categories of gaming machines**

Section 172 of the Act prescribes the number and category of gaming machines that are permitted in each type of gambling premises licensed by authorities. Neither the Commission nor Licensing Authorities have the power to set different limits or further expand or restrict the categories of machine that are permitted. In addition, limits are set separately in the Act for certain types of permits issued by Licensing Authorities.

Section 236 of the Act provides for the Secretary of State to make regulations to define four classes of gaming machine: categories A, B, C and D with category B to be further divided into sub-categories. The regulations will define the classes according to the maximum amount that can be paid for playing the machine and the maximum prize it can deliver. The regulations may also define the classes according to the nature of the gambling for which the machine may be used and the premises where a machine may be used.

## **Age restrictions**

There is a minimum age of 18 for all players for all category A, B and C machines. There is no minimum age for players of category D machines, however the Secretary of State has a reserve power to set a minimum age for playing category D machines with an associated power to exempt certain machines like cranes and penny pushers. The holder of a permit or premises licence will have to ensure that he complies with the codes of practice issued by the Commission on the location of and access to such machines by children and young persons, and their separation from category C and B machines where those are also located on the same premises.

See Appendix A, tables A and B for a summary of the categories of gaming machines and the maximum number of machines by premises type.

**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 <b>OR</b> 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
	<b>A</b>	<b>B1</b>	<b>B2</b>	<b>B3</b>	<b>B4</b>	<b>C</b>	<b>D</b>



## Appendix B

Premises:	Direct internal access permitted to:	No direct internal access permitted to:
<b>Casino</b>		<b>Betting shop</b> <b>Bingo hall</b> <b>AGC</b> <b>FEC</b> <b>Club</b> <b>Pub</b>
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,<sup>2</sup> or
  - (b) the sale of tickets in any other lottery in respect of which the sale of tickets on the premises is otherwise prohibited.<sup>3</sup>

#### **Mandatory conditions to be attached to casino premises licences**

- 1) – (1) The principal entrance to the premises shall be from a street.
  - (2) No entrance to the premises shall be from premises that are used wholly or mainly by children, by young persons, or by both.
  - (3) No customer shall be able to enter the premises directly from any other premises in respect of which a licence issued under Part 8 of the Act, or a permit issued under Schedule 10, 12 or 13 to the Act has effect.
- 2) A gap of at least 2 metres shall be maintained between any ordinary gaming table and any other equipment, apparatus or structure used by a person to gamble on the premises.

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<sup>2</sup> 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.

<sup>3</sup> 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) No more than 40 separate player positions may be made available for use in relation to wholly automated gaming tables at any time.
- 4) – (1) The rules of each type of casino game that is available to be played on the premises shall be displayed in a prominent place within both the table gaming area and other gambling area of the premises to which customers wishing to use facilities for gambling have unrestricted access.
  - (2) The condition in sub-paragraph (1) may be satisfied by:
    - (a) displaying a clear and legible sign setting out the rules; or
    - (b) making available to customers leaflets or other written material containing the rules.
- 5) Any ATM made available for use on the premises shall be located in a place that requires any customer who wishes to use it cease gambling at any gaming table, gaming machine or betting machine in order to do so.

## **Mandatory conditions to be attached to converted casino premises licences**

- 1) A notice shall be displayed in a prominent place at every entrance to the premises stating that no person under the age of 18 years is permitted to enter the premises.
- 2) – (1) This paragraph shall apply to premises which have a gambling area the floor area of which is no less than 200 square metres.
  - (2) In determining the floor area of the gambling area, all areas in which facilities for gambling are provided on the premises shall be taken into account.
  - (3) The premises shall contain a non-gambling area, the floor area of which is no less than 10% of the floor area of the gambling area.
  - (4) The non-gambling area may consist of one or more areas within the premises.
  - (5) Lobby areas and toilet facilities may be taken into account in calculating the non-gambling area; but the non-gambling area shall not consist exclusively of lobby areas and toilet facilities.
  - (6) Facilities for gambling shall not be provided in the non-gambling area.
  - (7) At any time during which facilities for gambling are being provided on the premises, each separate area comprising the non-gambling area, other than the lobby areas and toilet facilities referred to in sub-

paragraph (5), shall contain recreational facilities that are available for use by customers on the premises.

## **Default condition to be attached to casino premises licences**

1. No facilities for gambling shall be provided on the premises between the hours of 6 am and noon on any day.

<b>Table 1 – Contact details for the Licensing Authority:</b>	
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: <a href="mailto:Licensing@easthants.gov.uk">Licensing@easthants.gov.uk</a> 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.