

# Gambling Act 2005 Information Sheet



## Licensed family entertainment centres (FECs)

### Background

The Gambling Act 2005 ("the Act") creates two classes of family entertainment centre (FEC) which are:

- Licensed FECs which provide category C and D machines and require a premises licence issued by the Licensing Authority; and
- Unlicensed FECs which provide category D machines only and are regulated through FEC gaming machine permits. (A separate information sheet is available as regards these permits).

### Protection of children & young persons

Children and young persons will be permitted to enter a FEC and may play on the category D machines. They will not be permitted to play on category C machines, and it will be a requirement that there must be clear segregation between the two types of machine, so that children do not have access to category C machines.

### Operating and premises licences

Persons operating a licensed FEC must hold an operating licence issued by the Gambling Commission ("the Commission") as well as a premises licence issued by the local Licensing Authority.

The Gambling Commission ("the Commission") is likely to set conditions to require operators to ensure that category C machines are clearly marked for over-18s only, and that staff must prevent access by under-18s and challenge any young persons who do attempt to play the machines.

### Gaming machines

Section 172(2) of the Act provides that the holder of an FEC premises licence may make available for use any number of category C machines; and any number of category D machines. Category C machines must be in a separate area to ensure the segregation and supervision of machines that may only be played by adults.

Information concerning the different categories of machines and the maximum amount permitted in the different types of premises is attached as Appendix A.

### FEC 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 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 FECs.

## **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;
- **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

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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 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	
Family entertainment centre (with premises licence)						No limit C or D machines	

Premises Type	Machine Category						
	A	B1	B2	B3	B4	C	D
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

<b>Premises:</b>	<b>Direct internal access</b>	<b>No direct internal</b>
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	<b>permitted to:</b>	<b>access permitted to:</b>
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
<b>FEC</b>	<b>Bingo hall</b> <b>Club</b> <b>Pub</b>	<b>Casino</b> <b>Betting shop</b> <b>AGC</b>
Club	FEC Pub	Casino Betting shop Bingo hall AGC
Pub	FEC Club Pub	Casino Betting shop AGC

## Appendix C

# ***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 FEC 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;
  - c) A betting premises licence other than a track premises licence.
- 2) 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 at any gaming machine in order to do so.
- 3) - (1) Where Category C gaming machines are made available for use on the premises, any area of the premises in which those machines are located:
  - a) shall be separated from the rest of the premises by a physical barrier which is effective to prevent access otherwise than by an entrance designed for the purpose;

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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.

- b) shall be supervised at all times by one or more persons whose responsibilities include ensuring children or young persons or both do not enter the area; and
- c) shall be arranged in such a way so as to permit all parts of the area to be observed by the persons mentioned in sub-paragraph (2).

(2) The reference to supervision in this paragraph means supervision by:-

- a) one or more persons whose responsibilities include ensuring children or young persons or both do not enter the area; or
- b) closed circuit television which is monitored by one or more persons whose responsibilities include ensuring that children or young persons or both do not enter the area.

(3) A notice stating that no person under the age of 18 years is permitted to enter the area shall be displayed in a prominent place at the entrance to any area of the premises in which Category C gaming machines are made available for use.

4) - (1) No alcohol shall be permitted to be consumed on the premises at any time during which facilities for gambling are being provided on the premises.

(2) A notice stating the condition in sub-paragraph (1) shall be displayed in a prominent place at every entrance to the premises.

**Note: No default conditions will attach to these types of premises licences.**

<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.