

LADBROKES

GAMBLING ACT 2005

**APPLICATION FOR BETTING PREMISES LICENCE
BY**

LADBROKES BETTING AND GAMING LIMITED

IN RESPECT OF PREMISES SITUATED AT

72 MONK STREET, DERBY, DE22 3QB

LAW BUNDLE INDEX

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Gambling Act 2005

S1 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.

S153 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,
- (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 349 (subject to paragraphs (a) to (c)).

(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 166.

[S166 Resolution not to issue casino licences]

Part 5: Principles to be applied by licensing authorities

Principles to be applied

- 5.1 In exercising most of their functions under the 2005 Act, licensing authorities must have regard to the licensing objectives set out in section 1 of the Act. In particular, licensing authorities must have regard to the licensing objectives when exercising their functions in relation to premises licences, temporary use notices and some permits. Those objectives are:
- preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime
 - ensuring that gambling is conducted in a fair and open way
 - protecting children and other vulnerable persons from being harmed or exploited by gambling.
- 5.2 In considering applications, licensing authorities in England and Wales should take particular care to bear in mind that these objectives are not the same as those in the Licensing Act 2003. In particular, they do not include considerations in relation to public safety or prevention of public nuisance. The requirement in relation to children is explicitly to protect them from being harmed or exploited by gambling.
- 5.3 Similarly in Scotland the licensing objectives for the Licensing (Scotland) Act 2005 are different. In particular the Gambling Act does not include the objectives of preventing public nuisance and protecting and improving public health.
- 5.4 Section 153 of the Act provides that in exercising its functions under Part 8 of the Act (premises licensing and provisional statements), a licensing authority shall aim to permit the use of premises for gambling in so far as it thinks it is:
- (a) in accordance with any relevant code of practice under section 24 (i.e. such as that found within the Commission's *Licence Conditions and Codes of Practice* (LCCP))
 - (b) in accordance with any relevant guidance issued by the Commission under section 25 (ie this document)
 - (c) reasonably consistent with the licensing objectives (subject to (a) and (b) above), and
 - (d) in accordance with the Licensing Authority Statement of Policy (subject to (a) and (c) above). (See part 6 of this Guidance.)
- 5.5 Section 153 applies not only to a licensing authority's relevant functions under Part 8 of the Act (ie applications for the grant, transfer, reinstatement or review of premises licences and provisional statements) but also when it is deciding whether to give a counter notice on receipt of a temporary use notice. Its effect is that, whilst in such circumstances there is a presumption in favour of permitting the relevant premises to be used for gambling, the licensing authority may not do so unless satisfied that such use would be in accordance with the guidance contained in this document, any relevant Commission code of practice and its own statement of licensing policy as well as reasonably consistent with the licensing objectives. In reaching a view that the grant of a licence, or the giving of the temporary use notice, is in accordance with such guidance, code of practice or policy statement, a licensing authority is, in common with all such public authority decision makers, under a duty to act fairly and rationally. In cases where an authority is concerned whether a grant would be in accordance with, for example, the guidance in this document, this can be resolved by the imposition of appropriate licence conditions. In the unlikely event that a licensing authority perceives a conflict between a provision of a Commission code of practice or this Guidance and its own policy statement or view as to the application of the licensing objectives the structure of section 153 makes it plain that the Commission's codes and Guidance take precedence.

- 5.6 Section 153 also makes it clear that in deciding whether or not to grant a licence a licensing authority must not have regard to the expected demand for gambling premises that are the subject of the application.
- 5.7 The requirements in section 153 are subject to the licensing authority's power (under section 166) to resolve not to issue casino premises licences. This means that a resolution not to issue a casino premises licence applies regardless of the matters set out in section 153.
- 5.8 It should be noted that, unlike the Licensing Act, the Gambling Act does not include as a specific licensing objective the prevention of public nuisance. Any nuisance associated with gambling premises should be tackled under other relevant legislation.

More about the licensing objectives

Objective 1

Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime

- 5.9 The Commission play a leading role in preventing gambling from being a source of crime. It will maintain rigorous licensing procedures that aim to prevent criminals from providing facilities for gambling, or being associated with providing such facilities. The Act provides the Commission with powers to investigate the suitability of applicants for operating and personal licences, and others relevant to the application. This will provide the Commission with the power to make enquiries about and investigate those who are involved in the control of a company or the provision of gambling. In considering applications for operating and personal licences the Commission will, in particular, take a serious view of any offences involving dishonesty committed by applicants or persons relevant to the application.
- 5.10 As applicants for premises licences (except occupiers of tracks who do not propose to offer gambling themselves) will have to hold an operating licence from the Commission before the premises licence can be issued, licensing authorities will not need to investigate the suitability of an applicant. If during the course of considering a premises licence application, or at any other time, the licensing authority receives information that causes it to question the suitability of the applicant to hold an operating licence, these concerns should be brought to the attention of the Commission without delay.
- 5.11 Among other matters, licensing authorities may need to consider the location of premises in the context of this licensing objective. If an application for a licence or permit is received in relation to premises that are in an area noted for particular problems with organised crime, for example, licensing authorities should think about what (if any) controls might be appropriate to prevent those premises becoming a source of crime. These might include conditions being put on the licence, such as a requirement for door supervisors.
- 5.12 A licensing authority will need to consider questions raised by the location of gambling premises when:
- formulating its Licensing Authority Statement of Policy
 - receiving relevant representations to an application
 - dealing with applications as a responsible authority in its own right
 - considering applications before it.
- 5.13 Regulatory issues arising from the prevention of disorder are likely to focus almost exclusively on premises licensing, rather than on operating licences. (Although if there are persistent or serious disorder problems that an operator could or should do more to prevent, the licensing authority should bring this to the attention of the Commission so that it can consider the continuing suitability of the operator to hold an operating licence.)

- 5.14 Local authorities are experienced in making judgements in relation to the suitability of premises, particularly those for which they have responsibilities under the Licensing Act 2003, in which context they have wider powers to also take into account measures to prevent nuisance.
- 5.15 In relation to preventing disorder, licensing authorities have the ability under section 169 of the Act to attach additional conditions to premises licences, and are entitled to include a requirement for door supervision, as provided for in section 178 of the Act. If a person employed on door supervision would be required to hold a licence issued by the Security Industry Authority (SIA), that requirement will have force as though it were a condition on the premises licence. Further information on conditions can be found in part 9 of this Guidance.
- 5.16 Local authorities should note that in the case of gambling premises licences, disorder is intended to mean activity that is more serious and disruptive than mere nuisance. Factors to consider in determining whether a disturbance was serious enough to constitute disorder would include whether police assistance was required and how threatening the behaviour was to those who could see or hear it. There is not a clear line between nuisance and disorder and the licensing authority should take the views of its lawyers before determining what action to take in circumstances in which disorder may be a factor.

Objective 2

Ensuring that gambling is conducted in a fair and open way

- 5.17 The Commission is concerned to ensure that not only is gambling fair in the way it is played, but also that the rules are transparent to players and they know what to expect. It achieves this by working to ensure that:
- operating and personal licences are issued only to those who are suitable to offer gambling facilities or work in the industry
 - easily understandable information is made available by operators to players about, for example: the rules of the game, the probability of losing or winning, and the terms and conditions on which business is conducted
 - the rules are fair
 - advertising is not misleading
 - the results of events and competitions on which commercial gambling takes place are made public
 - machines, equipment and software used to produce the outcome of games meet standards set by the Commission and operate as advertised.
- 5.18 Generally the Commission would not expect licensing authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will be a matter for either the management of the gambling business, and therefore subject to the operating licence, or will be in relation to the suitability and actions of an individual and therefore subject to the personal licence. (However, if licensing authorities suspect that gambling is not being conducted in a fair and open way this should be brought to the attention of the Commission so that it can consider the continuing suitability of the operator to hold an operating licence or of an individual to hold a personal licence.)
- 5.19 In relation to the licensing of tracks the licensing authority's role will be different from other premises in that track owners will not necessarily have an operating licence. In those circumstances the premises licence may need to contain conditions to ensure that the environment in which betting takes place is suitable. Please see part 20 of this Guidance for more information.

Objective 3

Protecting children and other vulnerable persons from being harmed or exploited by gambling

- 5.20 With limited exceptions, the intention of the Gambling Act is that children and young persons should not be permitted to gamble and should be prevented from entering those gambling premises which are adult-only environments. The objective refers to protecting children from being 'harmed or exploited by gambling'. That means preventing them from taking part in gambling and for there to be restrictions on advertising so that gambling products are not aimed at children or advertised in such a way that makes them particularly attractive to children, excepting Category D gaming machines.
- 5.21 In relation to casinos, the Commission has issued a code of practice on access to casino premises by children and young persons, as provided for by section 176 of the Act. The code of practice is available as part of the *Licence Conditions and Codes of Practice (LCCP)* on the Commission website⁶. In accordance with that section, adherence to the code will be a condition of the premises licence. (Please see part 9 of this Guidance for more information.)
- 5.22 The Act does not seek to prohibit particular groups of adults from gambling in the same way that it prohibits children. The Commission does not seek to define 'vulnerable persons', but it does for regulatory purposes assume that this group includes people who gamble more than they want to; people who gamble beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to mental health needs, learning disability or substance misuse relating to alcohol or drugs.
- 5.23 Licensing authorities need to consider, in relation to particular premises, whether any special considerations apply in relation to the protection of vulnerable persons. Any such considerations need to be balanced against the authority's objective to aim to permit the use of premises for gambling.

Good practice in regulation

- 5.24 Under the Legislative and Regulatory Reform Act 2006, any person exercising a specified regulatory function has a legal duty to have regard to the statutory principles of good regulation⁷ in the exercise of the function. These provide that regulatory activities should be carried out in a way which is transparent, accountable, proportionate, and consistent and should be targeted only at cases in which action is needed. The Gambling Commission has regard to these principles in relation to its responsibilities and also has regard to the requirements of the Regulators' Compliance Code⁸ ("the Code"). The purpose of the Code is to promote efficient and effective approaches to regulatory inspection and enforcement which improve regulatory outcomes without imposing unnecessary burdens on business.
- 5.25 The statutory principles of good regulation and the Code also apply to local authorities when they are fulfilling regulatory functions under the Gambling Act 2005⁹ and the Gambling Commission reminds licensing authorities that they are under a statutory duty to have regard to these principles and the Code.

⁶ LCCP available from www.gamblingcommission.gov.uk

⁷ Legislative and Regulatory Reform Act 2006, section 21

⁸ Regulators' Compliance Code, Department for Business, Innovation and Skills (formerly the Department for Business, Enterprise and Regulatory Reform), 2007, issued under section 22 of the Legislative and Regulatory Reform Act 2006

⁹ The Legislative and Regulatory Reform (Regulatory Functions) Order 2007, was amended by the Legislative and Regulatory Reform (Regulatory Functions) (Amendment) Order 2009, which, amongst other things, extended the application of the 2007 Order to local authorities in Wales and Scotland exercising regulatory functions under the Gambling Act 2005 - see Parts 3 and 7.

- 5.26 Guidance produced by the Better Regulation Delivery Office seeks to assist local authorities in interpreting the requirements of the Code, for example in developing their Compliance and Enforcement Policy¹⁰, and in delivering risk-based regulation in relation to age restrictions¹¹.

Human Rights Act 1998

- 5.27 The Secretary of State has certified that the Act is compatible with the European Convention on Human Rights. In considering applications, and taking enforcement action, under the Gambling Act licensing authorities should bear in mind that they are subject to the Human Rights Act and in particular:
- Article 1, Protocol 1 – peaceful enjoyment of possessions. A licence is considered a possession in law and people should not be deprived of their possessions except in the public interest
 - Article 6 – right to a fair hearing
 - Article 8 – respect for private and family life. In particular, removal or restriction of a licence may affect a person's private life
 - Article 10 – right to freedom of expression.

Licensing authorities are reminded of their duty when applying their Licensing Authority Statement of Policy to consider whether, in the light of relevant representations made to them, exceptions to those policies should be made in any particular case.

- 5.28 In deciding to reject an application, a licensing authority should rely on reasons that demonstrate that the licensing objectives are not being, or are unlikely to be, met. Licensing authorities should be aware that other considerations such as moral or ethical objections to gambling are not a valid reason to reject applications for premises licences. This is because such objections do not relate to the licensing objectives. An authority's decision cannot be based on dislike of gambling, or a general notion that it is undesirable to allow gambling premises in an area (with the exception of the casino resolution powers).

¹⁰ *Template: Compliance and Enforcement Policy*, Better Regulation Delivery Office. This template policy was developed by the Local Better Regulation Office, with local authorities, to assist local authorities in developing a policy that is in line with the requirements of the Regulators' Compliance Code, or to review their existing policy. It is available on the BRDO website at <http://www.bis.gov.uk/brdo/resources/risk-based-regulation/compliance-policy>

¹¹ The Age Restricted Products and Services Framework published in 2011 sets out an agreed set of shared responsibilities and reasonable expectations for young people, their parents and carers, businesses, employees and regulators with regards to access to age restricted products and services. The principles for regulators and enforcers will be underpinned by a Code of Practice for Regulatory Delivery, which is due to be launched for consultation in June 2012.

Part 6: Licensing Authority Statement of Policy

- 6.1 Section 349 of the Act requires all licensing authorities to prepare and publish a statement of the principles that they propose to apply in exercising their functions under the Act during the three-year period to which the policy applies.
- 6.2 The Licensing Authority Statement of Policy will last for a maximum of three years, but can be reviewed and revised by the authority at any time. The statement must be produced following consultation with those bodies and persons set out in subsection (3) of section 349 of the Act. Regulations made by the Secretary of State, or Scottish Ministers in Scotland, prescribe the form of statements, and the procedure to be followed in relation to them and their publication¹².

Fundamental principles

- 6.3 All Licensing Authority Statements of Policy should begin by stating the three licensing objectives, which the policy will promote. The statement should also state that the licensing authority shall aim to permit the use of premises for gambling as set out in section 153 of the Act.
- 6.4 Licensing Authority Statements of Policy should include a firm commitment to avoid duplication with other regulatory regimes so far as possible. For example, a range of general duties are imposed on the self-employed, employers and operators of gambling premises, both in respect of employees and of the general public, by legislation governing health and safety at work and fire safety. Therefore such requirements need not be included in the Licensing Authority Statement of Policy.
- 6.5 In determining its policy, the licensing authority must have regard to this Guidance, and give appropriate weight to the views of those it has consulted. In determining what weight to give particular representations, the factors to be taken into account will include:
- who is making the representations (what is their expertise or interest)
 - relevance of the factors to the licensing objectives
 - how many other people have expressed the same or similar views
 - how far the representations relate to matters that the licensing authority should be including in its policy statement.
- 6.6 In relation to premises licensing, licensing authorities can only consider matters within the scope of the Guidance, Act and Codes of Practice. Even if there is a large response regarding a certain issue, an authority may be unable to deal with the issue under the Gambling Act. However the issue may be a matter for other legislation, for example planning.
- 6.7 It will be up to the licensing authority to ensure that it looks at the views of consultees and considers carefully whether they should be taken into account and to what extent (having regard to the above factors). A licensing authority should always be able to give reasons for the decisions it has made following consultation. Having regard to this Guidance will be important for consistency, especially where licensing authority boundaries meet.
- 6.8 As with the Commission, it is expected that local licensing authorities will regulate gambling in the public interest.
- 6.9 While statements of policy may set out a general approach to the exercise of functions under the Act, no statement of policy should override the right of any person to make an application under the Act and to have that application considered on its merits. Additionally,

¹² SI No. 636: The Gambling Act 2005 (Licensing Authority Policy Statement) (England and Wales) Regulations 2006
SSI No. 154: The Gambling Act 2005 (Licensing Authority Policy Statement) (Scotland) Regulations 2006

a statement of policy must not undermine the right of any person to make representations on an application or to seek a review of a licence where provision has been made for them to do so. However if a 'no-casino' resolution has been passed by an authority it does not have to consider applications for new casino premises licences in its area.

'Demand' for gaming premises

- 6.10 Previous legislation required that the grant of certain gambling permissions should take account of whether there is unfulfilled demand for the facilities. Absence of unmet demand is not a criterion for a licensing authority in considering an application for a premises licence under the Gambling Act. Each application must be considered on its merits without regard to demand.
- 6.11 The Licensing Authority Statement of Policy should reflect this situation and not comment on the need for gambling premises.
- 6.12 However, the licensing authority may comment on the location of premises in so far as the location relates to the licensing objectives. So, for example, a Licensing Authority Statement of Policy could, and should, set out the general principles that the licensing authority will apply when determining whether the location of proposed gambling premises is acceptable (with or without conditions) in light of the licensing objectives. For example, a Licensing Authority Statement of Policy might set out that the authority will consider very carefully whether applications for premises licences in respect of certain gambling premises located very close to a school or a centre for gambling addicts should be granted in light of the third licensing objective. Any such policy must, however, come with the qualification that each case will be decided on its merits, and will depend to a large extent on the type of gambling that it is proposed will be offered on the premises. If an applicant for a premises licence can show how licensing objective concerns can be overcome, that will have to be taken into account.

Consultation

- 6.13 Section 349 (3) requires the licensing authority to consult the following on the Licensing Authority Statement of Policy or any subsequent revision:
- in England and Wales, the chief officer of police for the authority's area
 - in Scotland, the Chief Constable of the police force maintained for the police area comprising that area
 - one or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area
 - 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.
- 6.14 The list of persons to be consulted when preparing the Licensing Authority Statement of Policy is deliberately wide. This enables licensing authorities to undertake a comprehensive consultation exercise with anyone who may be affected by or otherwise have an interest in the Licensing Authority Statement of Policy.
- 6.15 Licensing authorities will develop their own consultation practices but they may like to consider the following:
- consultation with a range of organisations including faith groups, voluntary and community organisations working with children and young people, organisations working with people who are problem gamblers, medical practices or primary care trusts, and advocacy organisations (such as the Citizen's Advice Bureau and trade unions)
 - consultation with other tiers of local government (where they exist)
 - consultation with businesses that are, or will be, holders of a premises licence

- consultation with the organisations named as responsible authorities in the Act
- using a variety of consultation methods including meetings with gambling businesses in the local authority area and open forums for the public.

6.16 Any written consultation should follow best practice as set out by the Department for Business, Innovation and Skills including allowing 12 weeks for responses to the consultation¹³. Consultation documents could be provided on the licensing authority's website.

Form and content of the Licensing Authority Statement of Policy

- 6.17 Regulations made by the Secretary of State or Scottish Ministers set out requirements as to the form and publication of Licensing Authority Statements of Policy and subsequent revisions of statements. In addition to the requirements set out by the regulations (below), this Guidance sets out certain information that the Commission considers should be included in all Licensing Authority Statements of Policy.
- 6.18 The regulations provide for the form of the statement to be determined by the licensing authority subject to the following requirements:
- Licensing Authority Statement of Policy must contain an introductory section summarising the matters contained within the statement, describing the geographical area to which the statement applies, and listing the persons consulted in preparing the statement.
- 6.19 As required by the regulations, the statement should make clear the geographical area that it covers. This may be achieved by including a plan of the area covered by the statement.
- 6.20 The statement should also set out the licensable activities that are covered.
- 6.21 Statements of principles to be applied by the licensing authority in exercising its functions must be contained in four separate sections within the Licensing Authority Statement of Policy as set out below:
- 1) Licensing Authority Statements of Policy must contain a section that sets out the principles to be applied by the authority in designating, in writing, a body which is competent to advise the authority about the protection of children from harm.
- 6.22 Section 157 of the Act sets out the responsible authorities. Within this section, the licensing authority has discretion to determine the most appropriate body competent to advise the authority about the protection of children from harm. Such a body may, but not necessarily, be the Local Safeguarding Children Board in England and Wales, or the Child Protection Committee in Scotland. The licensing authority must consider which body best fulfils this function and the Licensing Authority Statement of Policy should set out this consideration, or the criteria the authority intends to use, in order to designate that body in writing.
- 2) Licensing Authority Statements of Policy must contain a section that sets out the principles to be applied by the authority to determine whether 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.
- 6.23 Section 158 of the Act defines interested parties as persons who:
- (a) live sufficiently close to the premises to be likely to be affected by the authorised activities
 - (b) have business interests that might be affected by the authorised activities or
 - (c) represent persons who satisfy paragraph a) or b).

¹³ Further information is available at www.bis.gov.uk

- 6.24 Licensing authorities must consider whether a person is an interested party with regard to particular premises on a case by case basis, judging each on its merits. However, an authority may have regard to a number of factors when making its decision. These factors should be set out in this part of the Licensing Authority Statement of Policy. An authority may take into account, for example, the size of the premises and the nature of the activities taking place. Larger premises may be considered to affect people over a broader geographical area compared with smaller premises offering similar facilities.
- 6.25 Licensing authorities should include guidance in their Licensing Authority Statements of Policy whom they consider comes within the category of those who represent persons living close to premises, or have business interests that may be affected by it. For example, this category could include trade associations and trade unions and residents' and tenants' associations. It is expected that the types of organisations that may be considered to have business interests will be given a wide interpretation to include, for example, partnerships, charities, faith groups and medical practices etc.
- 3) Licensing Authority Statements of Policy must contain a section that sets out the principles to be applied by the authority in exercising the functions under Sections 29 and 30 of the Act with respect to the exchange of information between it and the Commission, and the functions under section 350 of the Act with respect to the exchange of information between it and the other persons listed in Schedule 6 of the Act.
- 6.26 The Act empowers the Commission to seek information from licensing authorities, and places an obligation on authorities to comply with information requests. Specifically, section 29 of the Act entitles the Commission to request information from licensing authorities and to set out the manner in which the information is compiled, collated and provided, providing it:
- forms part of a register maintained under the Act
 - is in the possession of the authority in connection with a provision of the Act.
- 6.27 Section 350 of the Act allows licensing authorities to exchange information with other persons or bodies listed in Schedule 6 (1) for use in the exercise of functions under the Act as follows:
- a constable or police force
 - an enforcement officer
 - a licensing authority
 - HMRC
 - the Gambling Appeal Tribunal
 - the Secretary of State
 - Scottish Ministers.
- 6.28 The licensing authority must set out how it will approach information exchange with other regulatory bodies under the Act, and whether it intends to establish any protocols in this regard. The statement should also include the authority's approach to data protection and freedom of information. In particular, how information will be protected, whether the confidentiality of those making representations will be maintained, what information will be shared with other agencies or persons and how information can be accessed by data subjects.
- 6.29 Further information regarding the exchange of information can be found in part 13 of this Guidance.
- 6.30 For the purposes of their Licensing Authority Statement of Policy, licensing authorities should confirm that they will act in accordance with the relevant legislation and Guidance from the Commission and will adopt the principles of better regulation.
- 4) Licensing Authority Statements of Policy must contain a section that sets out the principles to be applied by the authority in exercising the functions under Part 15 of

- 6.46 Authorities should note that where a statement is revised, it is only the revision that needs to be published and consulted on. So, for example, an authority may consult separately on whether to pass a casino resolution and then subsequently publish the resolution as part of the statement. This can be done without any need to review and reopen consultation on the main body of the statement. Any revisions must be published and advertised in the same way as a new statement.
- 6.47 Regulations provide for the form and content of revisions to the Licensing Authority Statement of Policy to be determined by the licensing authority, subject to the following requirements:
- revisions to Licensing Authority Statements of Policy must include an introductory section at or near the beginning, summarising the matters dealt with in the statement and listing the persons consulted in preparing the revision.
- 6.48 Where the revision deals with any of the matters below, these must be presented in separate sections:
- 1) the principles to be applied by the authority in exercising the powers under section 157(h) of the Act to designate, in writing, a body which is competent to advise the authority about the protection of children from harm
 - 2) the principles to be applied by the authority in exercising the powers under section 158 of the Act, to determine whether a person is an interested party in relation to a premises licence, or an application for or in respect of a premises licence
 - 3) the principles to be applied by the authority in exercising its functions under sections 29 and 30 of the Act with respect to the exchange of information between it and the Gambling Commission, and the functions under section 350 of the Act with respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act or
 - 4) the principles to be applied by the authority in exercising the functions under Part 15 of the Act with respect to the inspection of premises; and the powers under section 346 of the Act to institute criminal proceedings in respect of the offences specified in that section.

Additional information to be made available

- 6.49 In order to ensure that applicants and persons who wish to make representations have the necessary information to be able to do so, the information set out below should be made available by licensing authorities as part of their communications strategy.
- 6.50 It should be noted that, unlike the Licensing Act, the Gambling Act does not include as a specific licensing objective the prevention of public nuisance. There is however other relevant legislation which deals with public nuisance. It would be helpful if licensing authorities could explain that objections to new premises or requests for a review should be based on the licensing objectives of the Gambling Act.
- 6.51 It is open to licensing authorities to include any of this information in their Licensing Authority Statement of Policy. However, authorities might think it more appropriate to make it available in another form, such as on the authority website.

Registers

- 6.52 Section 156 of the Act requires licensing authorities to maintain a register of the premises licences that it has issued. The register must be made available, at any reasonable time, to the public who may request copies of the entries. Authorities should ensure that

information regarding the location of the registers (ie on the website, in the council offices etc), when they can be viewed, and the cost of obtaining copies is made available to the public.

Fees

- 6.53 Authorities should ensure that information regarding the fees to be charged, including the level of fees, for applications for premises licences and other permissions under the Act is available to the public.
- 6.54 Separate guidance relating to the calculation of fees and accounting procedures has been produced by the Secretary of State available from the Department for Culture, Media and Sport website (www.culture.gov.uk). In Scotland, all of the equivalent fees will be set centrally by Scottish Ministers¹⁴.

Applications

- 6.55 Authorities should ensure that information is available on how to make applications for licences and other permissions under the Act. In particular, it would be helpful if authorities ensure that a full list of responsible authorities and their appropriate contact details, is readily available. Application forms, where appropriate, should also be made available. Authorities should note that there will be no prescribed application forms for family entertainment centre, prize gaming or licensed premises gaming machine permits. As such, the authority will need to make clear how applications for these permits should be made and in what form. Additionally, authorities will need to ensure that information regarding making representations, and applying for a review of a premises licence, is also made available.

Delegation

- 6.56 Information should be provided as to how functions are delegated under the Act (ie whether decisions are to be taken by a licensing officer, licensing sub-committee or full committee etc). A table setting out the scheme of delegation required by the Act may be the most appropriate method for this and is located in part 4 of this Guidance.

Statutory application forms and notices

- 6.57 There are a range of statutory application forms and notices that licensing authorities are required to use as part of their gambling licensing responsibilities. A summary list of these can be found in Appendix E. The forms and notices can be downloaded from the Department for Culture, Media and Sport website (www.culture.gov.uk).

¹⁴ Gambling Act 2005 (Premises Licence Fees) (Scotland) Regulations 2007; Gambling Act 2005 (Fees) (Scotland) Regulations 2007; Gambling Act 2005 (Fees No.2) (Scotland) Regulations 2007; Gambling Act 2005 (Fees No.3) (Scotland) Regulations 2007 and Gambling Act 2005 (Fees No.4) (Scotland) Regulations 2007.

Part 7: Premises licences

- 7.1 Where an individual or company proposes to offer gambling for which an operating licence is required, and which is premises based, that individual or company will also need to apply for a premises licence.
- 7.2 Premises licences are issued by the licensing authority with responsibility for the area in which the premises are situated.
- 7.3 The Act contains no rules about cases where premises lie within more than one authority's area. Such cases are likely to be rare. The Commission would expect an applicant to apply to the licensing authority in whose area the greater or greatest part of the premises is situated. If another authority receives an application it should discuss with the applicant and the neighbouring authority as to which is the appropriate authority. Ultimately, there is nothing in the Act giving an authority the right to turn down an application because it is responsible for a smaller area of the premises than another authority. However, in such circumstances, the other authority will be a 'responsible authority' in relation to the premises (see part 8 of this guidance), and will be able to give a view on the application through these channels. Note, this is not the same as the Licensing Act where an application must be made to the authority in which the greater part of the premises is situated.
- 7.4 Where the premises are located in two or more areas (equally or otherwise), ultimately the applicant may choose which licensing authority to apply to. In the rare cases where such premises exist, it will be important that the licensing authorities concerned maintain close contact about the grant of the premises licence, and subsequent compliance (including inspection powers) and other licensing functions. The licensing authority to which the premises licence application was made will have jurisdiction and the other(s) will need to pass relevant information about the premises to it.

Primary gambling activity

- 7.5 In accordance with section 150 of the Act, premises licences can authorise the provision of facilities on:
- (a) casino premises
 - (b) bingo premises
 - (c) betting premises, including tracks and premises used by betting intermediaries
 - (d) adult gaming centre premises (for category B3, B4, C and D machines)
 - (e) family entertainment centre premises (for category C and D machines) (note that, separate to this category, the licensing authority may issue a family entertainment centre gaming machine permit, which authorises the use of category D machines only).
- 7.6 By distinguishing between premises types the Act makes it clear that the primary gambling activity of the premises should be that described. Thus, in a bingo premises, the primary activity should be bingo, with gaming machines as an ancillary offer on the premises. This principle also applies to existing casino licences (but not 2005 Act casinos) and betting premises licences. The latest issue of the *Licence Conditions and Codes of Practice*¹⁵ sets out in full the requirements on operators. Subject to the gaming machine entitlements which various types of licence bring with them (and except in the case of tracks), the Act does not permit premises to be licensed for more than one of the above activities.
- 7.7 From time to time, the Commission publishes advice notes which whilst they are not legally binding are designed to assist in the understanding of matters such as primary gambling activity. These are updated in light of experience and innovation. Reference to them may assist licensing authorities in establishing compliance with primary gambling activity requirements.

¹⁵ The Licence Conditions and Codes of Practice (LCCP) is available from www.gamblingcommission.gov.uk

- 7.8 Please see part 16 of this Guidance for more information about gaming machine categories.

Casino premises

- 7.9 New casino premises licences issued under the Act will fall into one of two categories:
- (a) large casino premises licence
 - (b) small casino premises licence.
- 7.10 These premises are subject to separate regulations, involving a two-stage application process. Details of the two stage process can be found in part 17 of this Guidance.
- 7.11 In addition, there is a third category of casino that is permitted through transitional arrangements under Schedule 18 of the Act. Most of these casinos fall below the size thresholds of the other two categories. Such casinos may operate as card clubs without offering casino games.
- 7.12 Please see part 17 of this Guidance for more information about the definition of casinos and the licensing of those premises.

Meaning of premises

- 7.13 In the Act, 'premises' is defined as including 'any place'. Section 152 therefore prevents more than one premises licence applying to any place. But, there is no reason in principle why a single building could not be subject to more than one premises licence, provided they are for different parts of the building, and the different parts of the building can reasonably be regarded as being different premises. This approach has been taken to allow large, multiple unit premises such as pleasure parks, tracks, or shopping malls to obtain discrete premises licences, where appropriate safeguards are in place. However, licensing authorities should pay particular attention if there are issues about sub-division of a single building or plot and should ensure that mandatory conditions relating to access between premises are observed.
- 7.14 In most cases the expectation is that a single building/plot will be the subject of an application for a licence, for example, 32 High Street. But that does not mean that 32 High Street cannot be the subject of separate premises licences for the basement and ground floor, if they are configured acceptably. Whether different parts of a building can properly be regarded as being separate premises will depend on the circumstances. The location of the premises will clearly be an important consideration and the suitability of the division is likely to be a matter for discussion between the operator and the licensing officer. However, the Commission does not consider that areas of a building that are artificially or temporarily separated, for example by ropes or moveable partitions, can properly be regarded as different premises.
- 7.15 We recognise that different configurations may be appropriate under different circumstances but the crux of the matter is whether the proposed premises are genuinely separate premises that merit their own licence with, for example, the machine entitlements that brings and are not an artificially created part of what is readily identifiable as a single premises.
- 7.16 The Act sets out that the type and number of higher stake gaming machines allowable in premises is restricted according to the type of premises licence or permit granted. For example, a converted casino licence allows for 20 gaming machines in categories B, C or D. With the exception of AGCs and FECs, premises are not permitted to be used exclusively for making available gaming machines, but rather to provide the gaming facilities corresponding to the premises licence type. The Licence Conditions and Codes of Practice (LCCP), sets out in full the requirements on operators. The latest version of the LCCP can be found on the Commission's website.

- 7.17 With the exception of bingo clubs, tracks on race-days and licensed family entertainment centres, children will not be permitted to enter licensed gambling premises. Therefore businesses will need to consider carefully how they wish to configure their buildings if they are seeking to develop multi-purpose sites.
- 7.18 Licensing authorities should take particular care in considering applications for multiple premises licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular they should be aware of the following:
- The third licensing objective seeks to protect children from being harmed by gambling. In practice that means not only preventing them from taking part in gambling, but also preventing them from being in close proximity to gambling. Therefore premises should be configured so that children are not invited to participate in, have accidental access to, or closely observe gambling where they are prohibited from participating.
 - Entrances to and exits from parts of a building covered by one or more premises licences should be separate and identifiable so that the separation of different premises is not compromised and people do not 'drift' into a gambling area. In this context it should normally be possible to access the premises without going through another licensed premises or premises with a permit.
 - Customers should be able to participate in the activity named on the premises licence.
- 7.19 In determining whether two or more proposed premises are truly separate, the licensing authority should be aware of factors which could assist them in making their decision. Depending on all the circumstances of the case, these may include:
- Is a separate registration for business rates in place for the premises?
 - Is the premises' neighbouring premises owned by the same person or someone else?
 - Can each of the premises be accessed from the street or a public passageway?
 - Can the premises only be accessed from any other gambling premises?
- 7.20 Where more than one premises licence is permitted within a building the gaming machine entitlement for the separately licensed premises may not be aggregated and no more than the permitted number and category of machines for the relevant type of premises may be placed in any one of the individual sets of premises within the building.
- 7.21 The proper application of section 152 means that different premises licences cannot apply in respect of single premises at different times. There is no temporal element to a premises licence. Therefore, premises could not, for example, be licensed as a bingo club on week days and a betting shop at weekends.

Division of premises and access between premises

- 7.22 An issue that may arise when division of a premises is being considered is the nature of the unlicensed area from which a customer may access a licensed gambling premises. For casinos, bearing in mind the wide definition of a street, access might be from a foyer or other area which the public might enter for purposes other than gambling. The precise nature of this public area will depend on the location and nature of the premises. Licensing authorities will need to consider whether the effect of any division is to create a machine shed-type environment with very large banks of machines, which is not the intention of the access conditions, or whether it creates a public environment with gambling facilities being made available. Licensing authorities should, in particular, remember that where they have concerns about the use of premises for gambling, these may be addressed through licence conditions.
- 7.23 The Gambling Act 2005 (Mandatory and Default Conditions) Regulations¹⁶ set out the access provisions for each type of premises. The broad principle is that there can be no

¹⁶ SI no 1409: The Gambling Act 2005 (Mandatory and Default Conditions) (England and Wales) Regulations 2007
SSI no 266: The Gambling Act 2005 (Mandatory and Default Conditions) (Scotland) Regulations 2007

access from one licensed gambling premises to another, except between premises which allow access to those under the age of 18 and with the further exception that licensed betting premises may be accessed from other licensed betting premises. Under-18s can go into family entertainment centres, tracks, pubs and some bingo clubs. So access is allowed between these types of premises.

- 7.24 It should be noted that the Gambling Act 2005 (Mandatory and Default Conditions) Regulations define street as 'including any bridge, road, lane, footway, subway, square, court, alley or passage (including passages through enclosed premises such as shopping malls) whether a thoroughfare or not'. This is to allow access, for example, to casinos from hotel foyers.
- 7.25 There is no definition of 'direct access' in the Act or regulations. However, it could be said that there should be an area separating the premises concerned (for example a street or cafe), which the public go to for purposes other than gambling, for there to be shown to be no direct access.
- 7.26 The relevant access provisions for each premises type is as follows:

Casinos

- the principal entrance to the premises must be from a street (as defined above)
- no entrance to a casino must be from premises that are used wholly or mainly by children and/or young persons
- no customer must be able to enter a casino directly from any other premises which holds a gambling premises licence.

Adult gaming centres

- no customer must be able to access the premises directly from any other licensed gambling premises.

Betting shops

- access must be from a street (as defined above) or from other premises with a betting premises licence
- no direct access from a betting shop to another premises used for the retail sale of merchandise or services. In effect there cannot be an entrance to a betting shop from a shop of any kind and you could not have a betting shop at the back of a cafe – the whole area would have to be licensed.

Tracks

- no customer should be able to access the premises directly from:
 - a casino
 - an adult gaming centre.

Bingo premises

- no customer must be able to access the premises directly from:
 - a casino
 - an adult gaming centre
 - a betting premises, other than a track.

Family entertainment centres

- no customer must be able to access the premises directly from:
 - a casino
 - an adult gaming centre
 - a betting premises, other than a track.
-

Management of areas where category B and C gaming machines are located in premises that admit children and young people

- 7.27 According to mandatory and default conditions relating to premises that admit under 18s, any area where category B and C gaming machines are located must be:
- separated from the rest of the premises by a physical barrier which is effective to prevent access other than by an entrance designed for that purpose
 - supervised (see below) at all times to ensure that under-18s do not enter the area
 - arranged in a way that ensures that all parts of the area can be observed
 - supervised either by:
 - one or more persons whose responsibilities include ensuring that under-18s do not enter the areas
 - CCTV monitored by one or more persons whose responsibilities include ensuring that under-18s do not enter the areas.

A notice stating that no person under the age of 18 is permitted to enter the area must be displayed in a prominent place at the entrance to the area.

- 7.28 There are a range of other conditions which attach to each type of premises. These are not covered in this section, but are set out in part 9 and the parts of this document relating to each type of premises.

Access to gambling by children and young people

- 7.29 The Act contains the objective of 'protecting children and other vulnerable persons from being harmed or exploited by gambling'. Children (defined in the Act as under-16s) and young persons (16–17s) may take part in private and non-commercial betting and gaming but the Act contains a number of restrictions on the circumstances in which they may participate in gambling or be on premises where gambling is taking place. An adult is defined as 18 and over. In summary:
- casinos are not permitted to admit anyone under 18
 - betting shops are not permitted to admit anyone under 18
 - bingo clubs may admit those under 18 but must have policies to ensure that they do not play bingo, or play category B or C machines that are restricted to those over 18
 - adult entertainment centres are not permitted to admit those under 18
 - family entertainment centres and premises with a liquor licence (for example pubs) can admit under-18s, but they must not play category C machines which are restricted to those over 18
 - clubs with a club premises certificate can admit under-18s, but they must have policies to ensure those under 18 do not play machines other than category D machines
 - all tracks can admit under-18s, but they may only have access to gambling areas on days where races or other sporting events are taking place, or are expected to take place. This was extended to other sporting venues under the Gambling Act 2005 (Exclusion of Children from Track Areas) Order 2007. Tracks will be required to have policies to ensure that under-18s do not participate in gambling other than on category D machines.
- 7.30 Licensing authorities should take particular care in considering applications for multiple licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular they should be aware that entrances and exits from parts of a building covered by one or more licences should be separate and identifiable so that the separation of different premises is not compromised and that people do not 'drift' into a gambling area. The plan of the premises should clearly denote entrances and exits.

Vessels and vehicles

- 7.31 The Act permits premises licences to be granted for passenger vessels. Separate application forms are prescribed for vessels under the Premises Licences and Provisional Statements Regulations. The definition of a vessel in section 353(1) of the Act is:
- anything (other than a seaplane or amphibious vehicle), designed or adapted for use on water
 - a hovercraft
 - anything, or part of any place, situated on or in water.
- 7.32 This last part of the definition should be given a normal and sensible interpretation. Structures which are an extension of the land are not vessels, even if they arch over water. Thus, neither a pier nor a bridge is to be considered a vessel. Instead, they remain premises under the Act. This is important because not all forms of permit are available to vessels.
- 7.33 The Act allows pleasure boats to apply for premises licences. As with multi-purpose buildings, the part of the vessel where gambling takes place will be licensed and the usual restrictions on access for children will apply. The Act applies in relation to a vessel that is not permanently moored or berthed as if it were premises situated in a place where it is usually moored or berthed. The relevant licensing authority for considering an application for a premises licence in respect of a vessel is therefore the licensing authority for the area in which it is usually moored or berthed.
- 7.34 Vehicles (trains, road vehicles, aircraft, sea planes and amphibious vehicles, other than a hovercraft) may not be the subject of a premises licence and therefore all forms of commercial betting and gaming will be unlawful in a vehicle in Great Britain. Certain allowances are made for private and non-commercial gaming or betting to take place in a vehicle, but these are subject to a number of stringent requirements. These ensure that, at no point, can the gambling become a commercial activity.
- 7.35 Where a premises licence is sought in connection with a vessel which will be navigated while licensable activities take place, the licensing authority should be concerned with the promotion of the licensing objectives on board the vessel. It should not focus on matters relating to safe navigation or operation of the vessel, the general safety of passengers or emergency provision, all of which are subject to regulations which must be met before the vessel is issued with its Passenger Certificate and Safety Management Certificate.
- 7.36 Licences are not required for gambling if it takes place aboard a vessel engaged on an international journey. Such gambling is exempted from the offences under the Act if the vessel is on a journey which has taken it, or is intended to take it, into international waters (so this includes cross-channel ferries). In the case of aircraft, no offence takes place if the gambling takes place in international airspace.
- 7.37 This means that licensing authorities will have jurisdiction over gambling conducted on vessels on all inland waterways, at permanent moorings, and on all aircraft on the ground or in domestic airspace. If an ocean-going vessel is involved, authorities will need to establish where the vessel has been, or is intending to go.

Single and combined licences

- 7.38 Only one premises licence may be issued for any particular premises at any time, although the licence may authorise more than one type of gambling. Details of the gambling permissible under each type of licence are set out in the Act and in the premises specific parts of this Guidance.

- 7.39 There is one exception to this rule, namely a track (that is a horse racing course, dog track or other premises where races or sporting events take place), which may be subject to more than one premises licence, provided each licence relates to a specified area of the track.
- 7.40 The Act sets out that there will be a main (betting premises) licence for the track, and, in addition, subsidiary premises licences for other gambling activities may be issued. The normal limitations in respect of access by children and young persons will apply, although in relation to a premises licence for a track, children and young persons will be permitted to enter track areas where facilities for betting are provided on days when dog racing and/or horse racing takes place. This is subject to the rule that children and young persons may not enter any area where gaming machines (other than category D machines) are provided.
- 7.41 In principle there is no reason why multiple types of gambling should not co-exist on a track (with the exception of a casino or adult gaming centre), but authorities will want to think about how the third licensing objective is delivered by the co-location of premises. As with the granting of multiple licences in a single building, licensing authorities will need to ensure that entrances to each type of premises are distinct and that under-18s are excluded from gambling areas where they are not permitted to enter.

Who can make an application?

- 7.42 An application for a premises licence may only be made by persons (which includes companies or partnerships):
- who have the right to occupy the premises
 - who have an operating licence which allows them to carry out the proposed activity, for example a bingo operating licence for a bingo premises, or have applied for an operating licence (the premises licence cannot be determined until an operating licence has been issued).
- 7.43 The exception to this is an applicant for a premises licence to allow a track to be used for betting, as these applicants are not required to hold an operating licence if they are merely providing space for other people to provide betting (and those other people hold valid betting operating licences). However, if a track owner is also acting as a betting operator or running pool betting he will have to have the relevant type of operating licence.
- 7.44 An applicant for a premises licence must be 18 or over.
- 7.45 An application must be made to the relevant licensing authority in the form prescribed in regulations laid down by the Secretary of State or Scottish Ministers.
- 7.46 The application must be accompanied by:
- the prescribed fee
 - the prescribed documents (that is a plan of the premises; the plan needs to be to scale, however, a specific scale has not been prescribed).
- 7.47 The Secretary of State and Scottish Ministers have made regulations¹⁷ requiring the applicant to publish notice of his application and to notify responsible authorities and other persons about the application. This will allow representations to be made.
- 7.48 Notice must be given in three ways:
- a notice placed outside the premises for 28 consecutive days in a place where it can be read conveniently

¹⁷ SI No. 459: The Gambling Act 2005 (Premises Licences and Provisional Statements) Regulations 2007
SSI No. 196: The Gambling Act 2005 (Premises Licences and Provisional Statements)(Scotland) Regulations 2007

- in a newspaper or newsletter of local relevance, on at least one occasion within ten days of the application being made
- to all responsible authorities within seven days of the application being made (the Commission is one of these responsible authorities).

Representations

- 7.49 In dealing with an application, licensing authorities are obliged to consider representations from two categories of person, referred to in the Act as 'responsible authorities' and 'interested parties'. Please see part 8 of this Guidance for more information on these categories.
- 7.50 It would be helpful if licensing authorities provide advice in a form that is readily accessible (for example, on their websites) about how representations can be made.
- 7.51 When considering a representation, the first thing the licensing authority should determine is whether the representation has been made by a responsible authority or interested party. This is very important as only representations from these two categories of person are admissible. If the representation has not been made by a responsible authority or interested party it is inadmissible.
- 7.52 Licensing authorities should be aware that their decision on this initial issue could be subject to legal challenge in the courts. There is no right of appeal under the Act against a licensing authority's determination that representations are not admissible.
- 7.53 After determining whether the representation has come from a responsible authority or interested party, and consequently whether it is admissible or inadmissible, the authority must then determine its relevance. The only representations that are likely to be relevant are those that relate to the licensing objectives, or that raise issues under the Licensing Authority Statement of Policy, or the Commission's Guidance or Codes of Practice (that is those matters mentioned in section 153 of the Act).
- 7.54 The Secretary of State and Scottish Ministers have made regulations under section 160 of the Act concerning notice of application. These require applicants for premises licences to give notice of their application to the responsible authorities. They also stipulate that applicants publish notice of their application in a local newspaper and display it on the premises for the benefit of interested parties. These provisions apply, with one or two necessary modifications, in relation to applications for provisional statements and some ancillary applications that can be made in relation to a premises licence. Responsible authorities will have a legitimate interest in the development of the premises, because of the functions that they will need to carry out in relation to them. But licensing authorities must take care to ensure that the concerns that responsible authorities may have in relation to their own functions are not taken into account if they are not relevant to the application for a premises licence under the Act. Thus, the following examples of possible representations would not likely be relevant:
- that there are already too many gambling premises in the locality (although it may be relevant if it points, as a result, to rising problems in crime, disorder, underage gambling or problem gambling)
 - that the proposed premises are likely to be a fire risk
 - that the location of the premises is likely to lead to traffic congestion; or that the premises will cause crowds of people to congregate in one area, which will be noisy and create a nuisance.

This list is by no means exhaustive, and each case must be decided on the facts.

- 7.55 It should be noted that, unlike the Licensing Act, the Gambling Act specifically does not include as a licensing objective the prevention of public nuisance. Any nuisance associated with gambling premises should be tackled under other relevant laws.

- 7.56 Linked to this is the question of what is a 'frivolous' or 'vexatious' representation. This is a question of fact, and authorities are advised to seek help from their legal advisers in interpreting these phrases. Representations that could be considered 'frivolous' or 'vexatious' are more likely to come from interested parties. However, matters that licensing authorities will want to look at are likely to include:
- who is making the representation, and whether there is a history of making representations that are not relevant
 - whether it raises a 'relevant' issue
 - whether it raises issues specifically to do with the premises that are the subject of the application.

- 7.57 The Commission does not routinely make representations on premises licence applications. However, the fact that the Commission has not made a representation on a particular premises licence application should not be taken as indicating the Commission's approval of that application. Exceptionally, where an application for a premises licence, or the operation of a current premises licence, raises matters of wider or national significance, the Commission will consider making representations or requesting a review.

Making a decision

- 7.58 As explained earlier in this Guidance, in relation to premises licences, the licensing authority's primary obligation under section 153(1) is to permit the use of premises in so far as it thinks that to do so is:
- a) in accordance with relevant codes of practice issued by the Commission
 - b) in accordance with guidance issued by the Commission
 - c) reasonably consistent with the licensing objectives (subject to (a) and (b) above), and
 - d) in accordance with the Licensing Authority Statement of Policy published by the authority (subject to (a) to (c) above).
- 7.59 For guidance as to the meaning and effect of section 153, see paragraph 5.5 above. If, in a particular case, a licensing authority were to decide either to grant or to refuse a premises licence in circumstances in which the Commission's Guidance indicated the opposite conclusion the decision could be challenged on appeal or by judicial review.

Relationship between planning permission, building regulations and granting of a premises licence

- 7.60 In determining applications the licensing authority has a duty to take into consideration all relevant matters and not to take into consideration any irrelevant matters, in effect those not related to gambling and the licensing objectives. One example of an irrelevant matter would be the likelihood of the applicant obtaining planning permission or building regulations approval for their proposal. Licensing authorities should bear in mind that a premises licence, once it comes into effect, authorises premises to be used for gambling. Accordingly, a licence to use premises for gambling should only be issued in relation to premises that the licensing authority can be satisfied are going to be ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required before the premises are brought into use. This is why the Act allows a potential operator to apply for a provisional statement if construction of the premises is not yet complete, or they need alteration, or he does not yet have a right to occupy them. See part 11 of this Guidance for more information about provisional statements.
- 7.61 As the Court has held in a 2008 case¹⁸, operators can apply for a premises licence in respect of premises which have still to be constructed or altered, and licensing authorities are required to determine any such applications on their merits. Such cases should be

¹⁸ The Queen (on the application of) Betting Shop Services Limited --v- Southend-on-Sea Borough Council [2008] EWHC 105 (Admin)

considered in a two stage process; first, licensing authorities must decide whether, as a matter of substance after applying the principles in section 153 of the Act, the premises ought to be permitted to be used for gambling; second, in deciding whether or not to grant the application a licensing authority will need to consider if appropriate conditions can be put in place to cater for the situation that the premises are not yet in the state in which they ought to be before gambling takes place. An authority is entitled to decide that it is appropriate to grant a licence subject to conditions, but it is not obliged to grant such a licence.

- 7.62 For example, where the operator has still to undertake final fitting out of the premises but can give a reasonably accurate statement as to when the necessary works will be completed, it may be sufficient to simply issue the licence with a future effective date, as is possible under the Regulations¹⁹. The application form allows the applicant to suggest a commencement date and the notice of grant allows the licensing authority to insert a date indicating when the premises licence comes into effect. In other cases, it may be appropriate to issue the licence subject to a condition that trading in reliance on it shall not commence until the premises have been completed in all respects in accordance with the scale plans that accompanied the licence application. If changes to the pre-grant plans are made, then parties who have made representations should be able to comment on the changes made. See part 9 of this Guidance for more information about licence conditions.
- 7.63 If the plans submitted at the time of the application for a premises licence are changed in any material respect during the fitting out of the premises after the grant of the licence, then the applicant will be in breach of the licence. If the applicant wishes to change the proposed plans after grant then, in order to avoid breaching the licence, it will be necessary for the applicant to either make a fresh application under section 159 or seek an amendment to a detail of the licence under section 187 of the Act. If there are substantive changes to the plans then this may render the premises different to those for which the licence was granted. In such a case, variation of the licence under section 187 is not possible. For this reason, and while this is a matter of judgement for the licensing authority, we consider it would be more appropriate in the case of any material post grant change, for the applicant to make a fresh application under section 159 to preserve the rights of interested parties and responsible authorities to make representations in respect of the application.
- 7.64 The local authority will need to be satisfied in any individual case that the completed works comply with the original, or changed, plan attached to the premises licence. Depending upon circumstances, we consider that this could be achieved either through physical inspection of the premises or written confirmation from the applicant or surveyor that the condition has been satisfied.
- 7.65 Requiring the building to be complete before trading commences would ensure that the authority could, if considered necessary, inspect it fully, as could other responsible authorities with inspection rights under Part 15 of the Act. Inspection will allow authorities to check that gambling facilities comply with all necessary legal requirements. For example, category C and D machines in a licensed family entertainment centre must be situated so that people under 18 do not have access to the category C machines. The physical location of higher stake gaming machines in premises to which children have access will be an important part of this, and inspection will allow the authority to check that the layout complies with the operator's proposals and the legal requirements.
- 7.66 If faced with an application in respect of uncompleted premises which it appears are not going to be ready to be used for gambling for a considerable period of time, a licensing authority ought to consider whether, applying the two stage approach advocated in paragraph 7.61 above, it should grant a licence or whether the circumstances are more appropriate to a provisional statement application. For example, the latter would be the

¹⁹ SI 2007/459 Premises Licensing and Provisional Statements Regulations
SSI No 196: The Gambling Act 2005 (Premises Licences and Provisional Statements)(Scotland) Regulations 2007

case if there was significant potential for circumstances to change before the premises opens for business. In such cases, the provisional statement route would ensure that the limited rights of responsible authorities and interested parties to make representations about matters arising from such changes of circumstance are protected. Licensing authorities may choose to discuss with individual applicants which route is appropriate, to avoid them having to pay a fee for, say, an application that the authority did not think was grantable, when it seems likely at an early stage that a provisional statement might be the better option.

- 7.67 When dealing with a premises licence application for finished buildings, the licensing authority should not take into account whether those buildings have to comply with the necessary planning or building consents. Nor should fire or health and safety risks be taken into account. Those matters should be dealt with under relevant planning control, building and other regulations, and must not form part of the consideration for the premises licence. Section 210 of the Act prevents licensing authorities taking into account the likelihood of the proposal by the applicant obtaining planning or building consent when considering a premises licence application. Equally, the grant of a gambling premises licence does not prejudice or prevent any action that may be appropriate under the law relating to planning or building.

Part 9: Premises licence conditions

- 9.1 The Act provides that conditions may be attached to licences in a number of ways:
- they may attach automatically, having been set out on the face of the Act
 - they may attach through regulations made by the Secretary of State or Scottish Ministers
 - they may be attached to operating and personal licences by the Commission
 - they may be attached to premises licences by licensing authorities.
- 9.2 Conditions may sometimes be general in nature (in effect they attach to all licences or all licences of a particular class) or they may be specific to a particular licence.
- 9.3 Conditions on premises licences should relate only to gambling, as considered appropriate in the light of the principles to be applied by licensing authorities under section 153. Accordingly, if the Commission's Licence Conditions and Codes of Practice or other legislation places particular responsibilities or restrictions on an employer or the operator of premises, it is not necessary or appropriate to impose the same or similar duties in conditions on a premises licence issued in accordance with the Gambling Act. Similarly, where other legislation confers powers on inspection and enforcement agencies in relation to separate activities or concerns, the Gambling Act does not affect the continued use of such powers; for example, the powers of an environmental health officer in respect of statutory nuisance under the Environmental Protection Act 1990.

Conditions and authorisations that attach automatically to premises licences by virtue of provisions on the face of the Act

- 9.4 The following paragraphs discuss the sections of the Act that provide for conditions to be attached automatically to premises licences, or for authorisations to be granted automatically. The Secretary of State may make regulations requiring these conditions to be set out on the premises licence. There is no discretion to decide not to include them, or to modify them.

Section 172

- 9.5 Section 172 provides for premises licences to permit a specified number of gaming machines of particular categories in each type of gambling premises. These permissions are set out in detail in part 16 of this Guidance.

Section 173

- 9.6 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

- 9.7 Section 174 authorises the holder of a casino premises licence for a small or large casino to make available the following types of gambling in addition to casino games (see part 17 of this document for details of the casino games authorised by the Commission):
- equal chance games
 - betting (but not in pre-2005 Act casinos with grandfather rights and only with a betting operating licence)
 - bingo (but only in large casinos and only with a bingo operating licence).

- 9.8 For the purposes of the Act, equal chance games are ones which do not involve playing or staking against a bank and in which the chances are equally favourable to all players. Licensing authorities must not restrict the equal chance gaming available (for example by prohibiting mah-jong) nor prohibit casino games that have not been prohibited by the Commission (see part 17 of this document).

Section 176

- 9.9 Section 176 requires the Commission to issue at least one code of practice about access to casino premises for children and young persons. In particular, the code must:
- specify steps that the premises licence holder must take to ensure that under-18s do not enter casino premises, including ensuring that each entrance to the casino is supervised by at least one person ('the supervisor') who is responsible for compliance with the code of practice
 - require that, unless the supervisor is certain that a person seeking admittance is an adult, evidence of age must be provided by those seeking to enter the casino or gambling area.
- 9.10 Section 176 also makes it a condition of the premises licence that the licensee must comply with the code of practice issued under this section. The relevant code of practice has been issued by the Commission and is available along with other codes and conditions on the Commission's website.. Licensing authorities should note that the requirement under this section to identify a 'supervisor' is separate from any other condition that may be attached relating to 'door supervision' more generally.

Section 177

- 9.11 Section 177 attaches a condition to casino premises licences and bingo premises licences that prohibits the licensee from:
- giving credit in connection with the gambling taking place on the premises
 - participating in, arranging, permitting or knowingly facilitating the giving of credit in connection with the gambling on the premises.
- 9.12 However, section 177 does not prevent the licensee from contracting a third party to install cash dispensers (ATMs) on their premises, which may accept both credit and debit cards. Such an arrangement is subject to requirements that the premises licence holder has no other commercial connection in relation to gambling with the provider of the ATMs (aside from the agreement to site the machines), does not profit from the arrangement, and does not make any payment in connection with the machines. All premises licences also include a mandatory condition which requires that any ATM made available for use on the premises must be located in a place that requires any customer who wishes to use it to cease gambling in order to do so.
- 9.13 This part of the Guidance deals only with the issue of credit in the context of section 177. The provision of credit by gambling operators and the use of credit cards are separate matters that are managed through operating licence conditions and codes of practice issued by the Commission.

Section 178

- 9.14 Section 178 relates to door supervision at premises licensed for gambling. It defines a condition for door supervision as one requiring someone to be responsible for 'guarding the premises against unauthorised access or occupation, against outbreaks of disorder or against damage'. Where a licensing authority chooses to attach such a condition, section 178 also provides that if the person carrying out such duties is required to be licensed under the Private Security Industries Act 2001 (PSIA), then that requirement must be

treated as though it were a condition of the premises licence. There is, however, an exemption from the PSIA licensing requirement for in-house employees working as door supervisors at casino and bingo premises, details of which can be found in part 33 of this Guidance.

Section 179

- 9.15 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. In the case of horse racing, pool betting can only be made available at racetracks by Betfred following their purchase of the Tote.

Section 180

- 9.16 Section 180 applies to all betting premises licences, except a licence in respect of a dog track. It provides that pool betting on dog racing, for example in a high street betting office, may be offered only in accordance with arrangements made with the occupier of the dog track at which the racing is taking place. This means that the dog track operator controls whether or not pool betting on the races that take place at his track is available outside the track, in other premises where betting is permitted. If he does wish this to happen, he can make arrangements with other betting operating licence holders for them to offer pool betting on the events he holds. This is a transitional measure and it will lapse on 31 December 2012, unless it is repealed before then.

Section 182

- 9.17 Section 182 applies only to betting premises licences in relation to tracks. It requires the licensee to ensure that children and young persons are excluded from any area in which facilities for betting are provided and from any area where a gaming machine (other than a category D gaming machine) is situated. The exception to this, for betting areas only, is on race days (that is, on those days when racing occurs or is expected to take place) at a dog racing track or horse racing track. On race days, on those tracks only, under-18s may have access to betting areas, but licensing authorities should note that this exception does not affect the prohibition on betting by children and young persons.

Section 183

- 9.18 Section 183 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 attached through regulations made by the Secretary of State or Scottish Ministers

- 9.19 These conditions fall into two categories. The first are mandatory conditions under section 167 of the Act, which provides for the Secretary of State or Scottish Ministers to set out in regulations conditions that must be attached to premises licences.
- 9.20 The second category relates to default conditions which may be imposed under section 168 of the Act, which provides for the Secretary of State or Scottish Ministers to make conditions that apply, unless the licensing authority decides to exclude them using its powers under section 169.

- 9.21 Mandatory and default conditions apply to all premises licences.
- 9.22 The Secretary of State and Scottish Ministers have made regulations setting mandatory and default conditions to be attached to premises licences²³.
- 9.23 Licensing authorities should note that mandatory conditions are set by the Secretary of State and Scottish Ministers with the intention that no further regulation in relation to that matter is required. Therefore, it is extremely unlikely that licensing authorities will need to impose individual conditions that will lead to a more restrictive regime in relation to matters that are already 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.
- 9.24 Licensing authorities have more flexibility in relation to default conditions, and may exclude a default condition and substitute it with one that is either more or less restrictive. Licensing authorities should note, however, that default conditions are intended to be the basic industry norm. While, given the requirements of section 153, 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.
- 9.25 In addition to the following conditions the regulations also specify conditions that relate to each category of premises licence. Details of these can be found in parts 17, 18, 19, 20, 21 and 22 of this Guidance.

Mandatory conditions attaching to all premises licences

- 9.26 The following mandatory conditions apply to all premises licences:
- the summary of the terms and conditions of the premises licence issued by the licensing authority must be displayed in a prominent place on the premises
 - the layout of the premises must be maintained in accordance with the plan that forms part of the premises licence
 - neither National Lottery products nor tickets in a private or customer lottery may be sold on the premises.

There are also mandatory conditions attaching to each type of premises licence controlling access between premises. There can be no direct access between one premises licensed under the Gambling Act 2005 and another premises licensed under the Gambling Act 2005, with the following exceptions:

- between licensed betting premises
- between bingo premises and alcohol-licensed premises/clubs with a club gaming or club machine permit/FECs and tracks
- between tracks and alcohol-licensed premises/clubs with a club gaming or club machine permit/FECs/betting premises and bingo premises
- between FECs and alcohol-licensed premises/bingo halls/clubs with club gaming or club machine permit and tracks.

Conditions that may be imposed on or excluded from premises licences by licensing authorities

- 9.27 Section 169 of the Act gives licensing authorities:
- the ability to exclude from premises licences any default conditions that have been imposed under section 168
 - the power to impose conditions on the premises licences that they issue.

²³ SI no 1409: The Gambling Act 2005 (Mandatory and Default Conditions) (England and Wales) Regulations 2007
SSI no 266: The Gambling Act 2005 (Mandatory and Default Conditions) (Scotland) Regulations 2007

- 9.28 Licensing authorities should bear in mind their duty to act in accordance with the principles set out in section 153. Since they must aim to permit the use of premises for gambling, they should not attach conditions that limit the use of premises for gambling, except where that is necessary as a result of the requirement to act:
- in accordance with this Guidance, the Commission's codes of practice or their own Licensing Authority Statement of Policy
 - in a way that is reasonably consistent with the licensing objectives.
- Conversely, licensing authorities should not turn down applications for premises licences where relevant objections can be dealt with through the use of conditions.
- 9.29 Conditions imposed by the licensing authority must be proportionate to the circumstances which they are seeking to address. In particular, licensing authorities should ensure that the premises licence conditions are:
- relevant to the need to make the proposed building suitable as a gambling facility
 - directly related to the premises and the type of licence applied for
 - fairly and reasonably related to the scale and type of premises
 - reasonable in all other respects.
- 9.30 It is the Commission's view that the conditions necessary for the general good conduct of gambling premises are those set as default and mandatory conditions by the Secretary of State and Scottish Ministers. Therefore, a pool of additional conditions published by the Commission is not necessary. Where there are specific, evidenced risks or problems associated with a particular locality, or specific premises or class of premises, a licensing authority will be able to attach individual conditions to address this. That will be a matter for them in the light of local circumstances.
- 9.31 Licensing authorities should take decisions on individual conditions on a case-by-case basis, although this will be against the background of any general policy set out in this Guidance or their own Licensing Authority Statement of Policy.

Conditions that may not be attached to premises licences by licensing authorities

- 9.32 The Act sets out certain matters that may not be the subject of conditions, as follows:
- section 169(4) prohibits an authority from imposing a condition on a 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 a premises licence (the Act specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated)
 - section 171 prevents an authority imposing conditions in relation to stakes, fees, winnings or prizes.

Part 16: Gaming machines

- 16.1 This part of the Guidance describes the categories of gaming machine and the number of such machines that may be permitted in each type of gambling premises as set out in the Act. Licensing authorities should note that the term 'gaming machine' now covers all machines on which people can gamble and the term has been preserved in the Act, because it is one that is readily understood by people.
- 16.2 Section 235 of the Act sets out the definition of a gaming machine. The definition is wider than those included in previous gaming legislation and covers all types of gambling activity that 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, in that skill machines are unregulated
 - 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 classed as a gaming machine, even though someone could access remote gambling facilities on a home PC.
- 16.3 Specific guidance on machines that are exempt from the definition laid out in the Act is set out later in this section of the Guidance, although licensing authorities should take legal advice or contact the Commission directly if they have concerns about the precise legal status of equipment being used on premises.
- 16.4 The Commission is responsible for licensing manufacturers and suppliers of gaming machines and advises operators to obtain machines from Commission-licensed suppliers. Similarly, permit holders and those applying for permits for clubs, alcohol-licensed premises or family entertainment centres will also be advised through Commission guidance to obtain gaming machines from Commission-licensed suppliers.
- 16.5 The Commission has set Gaming Machine Technical Standards relating to the way in which each category of machine will operate³⁰. The Commission has also set out a testing strategy that details the testing arrangements for each category of machine³¹. The Commission has the power to test gaming machines, both before they are supplied and when in operation in premises, to ensure that they are operating as advertised.
- 16.6 If a licensing authority has concerns relating to the manufacture, supply or repair of gaming machines, or the manner in which they are operating, it should contact the Commission.
- 16.7 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 (with the exception of alcohol-licensed premises holding gaming machine permits where authorities have discretion to specify the number of permitted gaming machines). In addition, limits are set separately in the Act for certain types of permit issued by authorities. Machine limits are summarised at Appendix A of this Guidance.

Categories of gaming machines³²

- 16.8 Regulations define four categories of gaming machine (as per section 236 of the Act): categories A, B, C and D, with category B divided into a further five subcategories. The categories and sub-categories have been defined according to the maximum amount that

³⁰ The Gaming Machine Technical Standards is available from www.gamblingcommission.gov.uk

³¹ The Gaming Machine testing strategy is available from www.gamblingcommission.gov.uk

³² Category C and complex category D gaming machines stakes and prizes are currently under review. Once these have been confirmed the new stakes and prize limits will be incorporated into the Guidance as a codicil.

can be paid for playing the machine and the maximum prize it can deliver. Please see Appendix B for a breakdown of machine categories and entitlements.

Age restrictions

- 16.9 There is a minimum age of 18 for all players for all category A, B and C machines, including category B3A gaming machines offering lottery style games. However there is no minimum age for players of category D machines. The holder of any permit or premises licence has to comply with the codes of practice issued by the Commission on the location of and access to gaming machines by children and young persons, and the separation from category C and B machines where those are also located on the same premises.

Maximum number of machines by premises type

- 16.10 The maximum number of machines permitted, and in the case of casinos the ratios between tables and machines, is set out by premises type below, and is also summarised in Table 16.ii (note that this information includes premises with permit entitlements, as well as licensed premises).

Large casinos

- 16.11 Section 172(4) provides that large casinos must have at least one gaming table to qualify for gaming machines, and are permitted five machines (of category B, C or D) for each gaming table available for use (see paragraph 17.6). Large casinos therefore need 30 gaming tables available for use to qualify for the maximum 150 machines.

Small casinos

- 16.12 Section 172(5) provides that small casinos must have at least one gaming table to qualify for gaming machines, and are permitted two machines (of category B, C or D) for each gaming table available for use (see paragraph 17.6). Small casinos therefore need 40 gaming tables available for use to qualify for the maximum 80 machines.

Converted casinos (Schedule 18 of the Act (Part 7))

- 16.13 Unless an existing casino decides to apply for one of the new casino premises licences (and the application is granted), it will operate under the 2005 Act by virtue of preserved rights for existing casino operators. These casinos will retain the rights to gaming machines equivalent to their entitlements under previous legislation. That means they are permitted no more than 20 machines of category B to D (except B3A machines), or they may elect to have any number of category C or D machines instead (as was previously the case under section 32 of the 1968 Gaming Act³³). There is no table-to-machine ratio in these casinos.

Bingo premises

- 16.14 Section 172(7) provides that the holder of a bingo premises licence may make available for use a number of category B gaming machines not exceeding 20% of the total number of gaming machines which are available for use on the premises and any number of category C or D machines. Premises in existence before 13 July 2011 are entitled to make available eight category B gaming machines, or 20% of the total number of gaming machines, whichever is the greater. The holder of a bingo premises licence granted on or after 13 July 2011 but before 1 April 2014 is entitled to make available a maximum of eight category B gaming machines or 20% of the total number of gaming machines, whichever is the greater; from 1 April 2014 these premises will be entitled to 20% of the total number of

³³ Commencement No 6 and Transitional Provisions Order SI 2006/3272 Schedule 4 paragraph 65(6)

gaming machines only.. Regulations state that category B machines at bingo premises are restricted to sub-category B3 and B4 machines but not B3A machines.

Betting premises (including track operators with pool betting licence)

- 16.15 Section 172(8) provides that the holder of a betting premises licence may make available for use up to four gaming machines of category B, C or D. By virtue of section 172(9) this permission extends to tracks, but only those where the licence holder also holds a pool betting operating licence. Regulations state that category B machines at betting premises are restricted to sub-category B2, B3 and B4 machines, but not B3A machines.

Adult gaming centres

- 16.16 Section 172(1) provides that the holder of an adult gaming centre premises licence may make available for use a number of category B gaming machines not exceeding 20% of the total number of gaming machines which are available for use on the premises and any number of category C or D machines. Premises in existence before 13 July 2011 are entitled to make available four category B gaming machines, or 20% of the total number of gaming machines, whichever is the greater. The holder of an adult gaming centre premises licence granted on or after 13 July 2011 but before 1 April 2014 is entitled to make available a maximum of four category B gaming machines or 20% of the total number of gaming machines, whichever is the greater; from 1 April 2014 these premises will be entitled to 20% of the total number of gaming machines only. Regulations state that category B machines at adult gaming centres are restricted to sub-category B3 and B4 machines, but not B3A machines.

Family entertainment centres (with a Commission operating licence)

- 16.17 Section 172(2) provides that the holder of a family entertainment centre premises licence may make available for use any number of category C and D machines. However category C machines must be in a separate area to ensure the segregation and supervision of machines that may only be played by adults.

Family entertainment centres (with gaming machine permit)

- 16.18 Section 247 provides that the holder of a family entertainment centre gaming machine permit may make available for use any number of category D machines. As with the position on licences, there is no power for the licensing authority to set a limit on the number of machines under the permit.

Clubs

- 16.19 Sections 271 and 273 provide that the holder of a club gaming permit or club machine permit may make available for use on premises operated by a members' club, a commercial club or a miners' welfare institute, up to three machines of category B, C or D (that is, three machines in total). As well as clubs with alcohol licences, premises that are not licensed to sell alcohol, for example, works premises which operate membership-based social clubs, are able to apply for club machine permits or club gaming permits. They need to have 25 members, be permanently established and be for the benefit of the members. Regulations state that category B machines for club machine permits are restricted to sub-category B3A and/or B4 machines, depending on the class of club. Commercial clubs are restricted to B4 machines only whereas members' clubs and miners' welfare institutes may site sub-category B3A and/or B4 machines. CORCA, the trade association representing the majority of members' clubs, entered into a voluntary agreement to site only one B3A machine as part of the allowance of three machines in each of their clubs. CORCA is responsible for ensuring that its 11 member associations and their clubs abide by the agreement.

Pubs and other premises with a qualifying on-premises alcohol licence (or equivalent in Scotland)

- 16.20 Section 282 provides that certain persons are automatically entitled to make gaming machines available for use by virtue of holding an alcohol licence. Specifically, these are the on-premises alcohol licence holders (or holders of the relevant Scottish licence) for premises which contain a bar at which alcohol is served, but without a requirement that alcohol is served only with food.
- 16.21 There is an automatic entitlement to two gaming machines of category C or D, subject to the licence holder notifying the licensing authority, paying the prescribed fee and complying with any relevant code of practice issued by the Commission. If the person ceases to be the holder of the on-premises alcohol licence for the premises, the automatic entitlement to the two gaming machines also ceases. In order to retain the entitlement to gaming machines, whoever applies for the new premises alcohol licence would also need to apply under section 282(2), notifying the licensing authority of their intention to make the gaming machines available for use and paying the prescribed fee.
- 16.22 In addition, in accordance with section 283, an application may be made for a licensed premises gaming machines permit, which allows for further category C or D machines to be made available in alcohol-licensed premises. There is no limit in the Act to the number of additional machines that may be authorised. Note that this is a total figure and is not in addition to the two machines which can be sited automatically. This will be a matter for the licensing authority to determine in each case, and specify on the permit.

Travelling fairs

- 16.23 Sections 286 and 287 provide that any number of category D machines may be made available for use at travelling fairs, subject to a requirement that the facilities for gambling (including but not confined to gaming machines) amount to no more than an ancillary amusement at the fair. There is no application or notification requirement, but licensing authorities will want to satisfy themselves from time to time that the gambling offered by virtue of these sections is taking place at a travelling fair within the definition contained in section 286. Travelling fairs may be adequately controlled through bye-laws and therefore no additional regulation through the Act is imposed.

Amusement with prizes machines in non-amusement premises

- 16.24 Permits for amusement with prizes gaming machines (AWPs) granted under section 34 of the 1968 Act in respect of non-amusement premises (such as, chip shops, taxi offices, corner tearooms), were valid only until 31 July 2009. AWPs are no longer permitted in non-amusement premises.

The meaning of 'available for use'

- 16.25 The offence in section 242 of the Act committed by a person who does not hold an operating licence or other permission covering gaming machines and where no other exemption applies, is that of making a gaming machine 'available for use'. However, the Act does not define what 'available for use' means here. In this section we aim to assist licensing authorities by providing guidance on the meaning of 'available for use'.
- 16.26 The Commission considers that a gaming machine is 'available for use' if a person can play it. It follows that more than the permitted number of machines may be physically located on a premises, provided the operator has a system in place that ensures no more than the permitted number are 'available for use' at any one time. The operator must control this system. If there is more than one player position, that is two or more people can

play a gaming machine simultaneously, then the machine counts as two or more machines³⁴.

- 16.27 An example of an appropriate system may be a situation where the power supply for machines of a certain category is controlled by the operator (and is not accessible to the player) so that one machine must be unplugged before another machine can be played. An example of an inappropriate system would be where an additional machine was located on premises and there was a spare socket which a player could plug the machine into at will, allowing play on more than the permitted number of machines.
- 16.28 If an operator does wish to put more than the permitted number of machines in a public area, the onus will be on the operator to demonstrate that no more than the permitted number of machines are 'available for use' at any one time.
- 16.29 A machine that can operate at more than one category, which is operating at a lower category, does not contribute to the number of machines 'available for use' at a higher category until it switches to that category. However, the operator must also have a system in place for these machines which ensures no more than the permitted number are 'available for use' at any one time.
- 16.30 The Commission permits systems in which a number of machines are networked so that the player can select which game and category they play at, but which adhere to any restrictions on the number of machines at a certain category.

Machines other than gaming machines in gambling premises

Automated roulette

- 16.31 There are two types of automated casino equipment that are excluded from the definition of a gaming machine established by the Act. The first type is those linked to a live game of chance, for example, roulette. These enable the player to gamble on a live game as it happens, without actually being seated at the table, sometimes referred to as 'electronic roulette'. These are not regulated as gaming machines but as live gaming and there is no limit on the number of items of such equipment. The second type is a machine that plays a live game but is fully automated, that is, it operates without any human intervention. For example, a roulette wheel that is electrically or mechanically operated with an air blower to propel the ball around the wheel. Again, these are not regulated as gaming machines, although casinos are bound by controls on the specification and number of player positions using such equipment. The Act requires that equipment used to play a game of chance, for example, cards, dice and roulette wheels is 'real' and not 'virtual' if it is not to be classed as a gaming machine.

Bet receipt terminals

- 16.32 Section 235(2)(c) provides that a machine is not a gaming machine by reason only of the fact that it is designed or adapted for use to bet on future real events. Some betting premises may make available for use machines that accept bets on live events, such as a sporting event, 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 replicate and automate the process that can be conducted in person, and therefore do not require regulation as gaming machines.
- 16.33 However, a machine made available to take bets on virtual races (that is, images generated by computer to resemble races or other events) is classified as a gaming machine and does, therefore, count towards the maximum permitted number of gaming machines. Accordingly, it must meet the relevant category limitations for the premises.

³⁴ SI No. 2289: The Gaming Machine (Single Apparatus) Regulations 2007

16.34 Section 181 of the Act 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 or to a casino premises licence (where betting is permitted in the casino). When considering whether to impose a condition to restrict the number of betting machines in these premises, the licensing authority, amongst other things, should take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of employees to monitor the use of the machines by vulnerable people. The authority should also bear in mind that the mandatory conditions set by the Secretary of State for large and small casinos already set a maximum of 40 player positions in relation to betting machines.

Skill games

16.35 The Act does not cover machines that give prizes as a result of the application of pure skill by players. A skill with prizes machine (SWP) is one on which the winning of a prize is determined only by the player's skill – any element of chance imparted by the action of the machine would cause it to be a gaming machine. An example of a skill game would be trivia game machines, popular in pubs and clubs, which require the player to answer general knowledge questions to win cash prizes. Other examples include racing games, such as F1 simulators, and shooting games. Many family entertainment centres have games that give prizes by redemption of tickets accumulated. Providing these machines give prizes according to the skill of the player, for example getting a high score shooting basketball, they will be exempt.

16.36 Further information on skill with prizes machines, and advice on how to distinguish between these machines and gaming machines, can be found on the Commission's website.

Other exclusions

16.37 Section 235 of the Act sets out a number of exclusions, covering machines that are not considered gaming machines, even though gambling may take place on them, as follows:

- A domestic or dual use computer is not a gaming machine just because it can be used to take part in remote gambling. Regulations define a 'domestic computer' as one capable of being used for a purpose not related to gambling that is located in a private dwelling and used only on domestic occasions. A 'dual use computer' is also defined as having to be capable of being used for a purpose not related to gambling, but in addition must not be knowingly adapted or presented in such a way as to facilitate or draw attention to the possibility of its use for gambling³⁵.
- A telephone or other 'machine facilitating communication' that could be used for gambling purposes, for example, a mobile phone via which text message based lotteries can be entered, is not considered to be a gaming machine unless that is its primary purpose. Ordinary mobile phones are therefore exempt from the definition, but telephones designed or adapted for the purpose of enabling gambling would not be.
- Some machines that allow the purchase of lottery tickets are not gaming machines. However, this is intended as an exemption for the sale of tickets in a real lottery with other participants (for example a lottery vending machine), and not a virtual scratch card lottery conducted only by means of the machine. This means, first, that if the results of the lottery are determined by the machine, the machine is not exempt; and, second, if the machine announces the results of the lottery (determined otherwise than by the machine) by display or communication then the interval between the sale of the ticket and the announcement of the result must

³⁵ The regulations defining these terms are SI No. 2082: The Gambling Act 2005 (Gaming Machines)(Definitions) Regulations 2007

comply with the minimum period of time specified by regulations³⁶. It should be noted that regulations have created a category of gaming machine that is defined by the fact that it is a lottery machine. These are category B3A machines and can only be sited in members' clubs and miners' welfare institutes.

- A machine operated by virtue of a bingo operating licence for the purpose of playing bingo will be exempt provided it complies with any conditions set by the Commission. This covers what are known as mechanised cash bingo and electronic bingo ticket minders.
- Also exempted are machines used for the playing of bingo by way of prize gaming in Adult Gaming Centres and Family Entertainment Centres, however, the prize gaming regulations must be followed.

³⁶ SI No. 2495: The Gambling (Lottery Machine Interval) Order 2007

Part 19: Betting premises

- 19.1 The Act contains a single class of licence for betting premises. However, within this single class of licence, there are different types of premises which require licensing. This part of the Guidance discusses off-course betting, that is, betting that takes place other than at a track in what was previously known as a licensed betting office. Tracks are discussed in part 20 of this Guidance. Please note that there are also betting offices on tracks, that have a separate premises licence from the track licence. Those are also discussed in part 20 of this Guidance.
- 19.2 The Act also permits betting intermediaries to operate from premises, although betting intermediaries usually offer their services via remote communication, such as the internet. In principle, however, there is nothing to stop a betting intermediary applying for a betting premises licence to offer intermediary services upon the premises.
- 19.3 Under the Gambling Act, licensing authorities are responsible for issuing and monitoring premises licences for all betting premises. The issuing of premises licences is discussed in part 7 of this Guidance.

Protection of children and young persons

- 19.4 Children and young persons are not able to enter premises with a betting premises licence, although exemptions apply to tracks, as explained in part 20 of this Guidance. Children and young persons are not allowed to be employed at premises with a betting premises licence..

Betting premises licence conditions

- 19.5 Part 9 of this Guidance discusses the conditions that may or may not be attached to premises licences, and those that are attached automatically. The Secretary of State and Scottish Ministers have set out in regulations the conditions relating specifically to betting premises. The paragraphs below discuss these conditions, both mandatory – those that must be attached to betting premises; and default – those that will apply unless the licensing authority chooses to exclude them using its powers under section 169.

Mandatory conditions attaching to betting premises licences

- 19.6 A notice shall be displayed at all entrances to the betting premises stating that no person under the age of 18 will be admitted. The notice should be clearly visible to people entering the premises.
- 19.7 There must be no access to betting premises from other premises that undertake a commercial activity (except from other premises with a betting premises licence including tracks). Except where it is from other licensed betting premises, the entrance to a betting shop should be from a street (defined as including any bridge, road, lane, footway, subway, square, court, alley or passage – including passages through enclosed premises such as shopping centres – whether a thoroughfare or not).
- 19.8 Any automated telling machine (ATM) made available for use on the premises shall be located in a place that requires any customer who wishes to use it to leave any gaming machine or betting machine in order to do so.
- 19.9 No apparatus for making information or any other material available in the form of sounds or visual images may be used on the licensed premises, except where used to communicate:
- information about or coverage of sporting events, including information

- relating to betting on such events (and incidental information including advertisements); or
- information relating to betting (including results) on any event in connection with which bets may have been effected on the premises.

Betting operator-owned TV channels are permitted.

- 19.10 No music, dancing or other entertainment is permitted on betting premises. This includes any form of entertainment such as apparatus producing sound or visual images which do not fall within paragraph 19.9 or machines which do not come within the categories of machine explicitly allowed in betting premises under section 172(8) of the Act.
- 19.11 The consumption of alcohol on the premises is prohibited.
- 19.12 The only publications that may be sold or made available on the premises are racing periodicals or specialist betting publications.
- 19.13 A notice setting out the terms on which a bet may be placed must be displayed in a prominent position on the premises.

Default conditions attaching to betting premises licences

- 19.14 Gambling facilities may not be offered in betting premises between the hours of 10pm on one day and 7am on the next day, on any day.

Gaming machines

- 19.15 Section 172(8) provides that the holder of a betting premises licence may make available for use up to four gaming machines of category B, C or D. Regulations state that category B machines at betting premises are restricted to sub-category B2, B3 and B4 machines. See part 16 of this Guidance for information on gaming machines.

Betting machines (bet receipt terminals)

- 19.16 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 that can be conducted in person and therefore do not require regulation as a gaming machine.
- 19.17 However, where a machine is made available to take bets on virtual races (that is, images generated by computer to resemble races or other events) that machine is a gaming machine and does count towards the maximum permitted number of gaming machines, and must meet the relevant category limitations for the premises.
- 19.18 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 or to a casino premises licence (where betting is permitted in the casino). 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 size of the premises, the number of counter positions available for person-to-person transactions, and the ability of employees to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people.

Primary Gambling Activity

- 19.19 It is not permissible for an operator to offer gaming machines on a premises which is licensed for betting but not to offer sufficient facilities for betting. A betting operating licence authorises its holder to 'provide facilities for betting' (section 65(2)(c) of the Act). Likewise, a betting premises licence authorises premises to be used for 'the provision of facilities for betting...' (section 150(1)(e) of the Act). The ability to make up to four gaming machines, within categories B2 – D, available is an additional authorisation conferred upon the holder of a betting premises licence (section 172(8) of the Act); it is not a free standing right to make gaming machines available for use. It follows that unless a betting premises operator offers sufficient facilities for betting it should not be making gaming machines available on the premises in question.
- 19.20 In the Commission's view it is also important, in relation to the licensing objective of protecting vulnerable persons from being harmed or exploited by gambling, that customers should be offered a balanced mix of betting and gaming machines in licensed betting premises. Thus, whilst the Commission recognises that betting premises are permitted to offer gaming machines, including B2 gaming machines, the Commission considers that betting should be the primary element of the gambling facilities being offered to customers in such premises. Betting may be provided by way of betting terminals or over a counter (face to face).
- 19.21 Accordingly, an operating licence condition provides that gaming machines may be made available for use in licensed betting premises only at times when there are also sufficient facilities for betting available. In this respect, such facilities must include information that enables customers to access details of events on which bets can be made, make such bets, learn of the outcome and collect any winnings.
- 19.22 The Licence Conditions and Codes of Practice (LCCP) sets out the full requirements on operators in licence condition 16 and code of practice provision 8.
- 19.23 Should a licensing authority receive an application to vary a premises licence for betting in order to extend the opening hours, the authority should satisfy itself that the reason for the application is in line with the requirements on primary gambling activity. Therefore, the applicant should be able to demonstrate that the extension of the opening hours is not designed solely to benefit from the machine entitlement and activity which is an ancillary to the primary activity of the premises, namely betting..

GAMBLING COMMISSION

Conditions and Codes of Practice applicable to Non-remote General Betting Licences Non-remote Pool Betting Licences Non-remote Betting Intermediary Licences

**Your licence is subject to certain conditions and codes of practice,
these are detailed in the following pages.**

Personal licences

(a) Subject to (e) and (f) below licensees must ensure:

- (i) that each individual who occupies one of the management offices specified in (b) below in or in respect of the licensee or in connection with the licensed activities holds a personal licence authorising the performance of the functions of that office (hereafter 'a personal management licence')
- (ii) that at least one person occupies at least one of those offices.

(b) The specified management offices are those offices (whether or not held by a director in the case of a licensee which is a company, a partner in the case of a licensee which is a partnership or an officer of the association in the case of a licensee which is an unincorporated association) the occupier of which is by virtue of the terms of their appointment responsible for:

- the overall management and direction of the licensee's business or affairs
- the licensee's finance function as head of that function
- the licensee's gambling regulatory compliance function as head of that function
- the licensee's marketing function as head of that function
- the licensee's information technology function as head of that function in so far as it relates to gambling-related information technology and software
- oversight of the day to day management of the licensed activities at an identified number of premises licensed under Part 8 of the Act or across an identified geographical area
- in the case of casino and bingo licences only, oversight of the day to day management of a single set of premises licensed under Part 8 of the Act.

(c) Licensees must take all reasonable steps to ensure that anything done in the performance of the functions of a specified management office is done in accordance with the terms and conditions of the holder's personal management licence.

(d) Where an individual is authorised by a personal licence and that licence comes under review under section 116(2) of the Act, the operating licensee must comply with any conditions subsequently imposed on that licence by the Commission about redeployment, supervision, or monitoring of the individual's work and any requirements of the Commission in respect of such matters applicable during the period of the review.

(e) Paragraphs (a) to (d) above shall not apply to a licensee for so long as the licensee is a 'small-scale operator' as defined in the Gambling Act 2005 (Definition of Small-scale Operator) Regulations 2006 ('the Regulations').

(f) During the period of 3 years commencing with the date on which a licensee ceases to be a small-scale operator paragraphs (a) to (e) above shall apply subject to the proviso that the phrase 'each individual' in paragraph (a)(i) shall not include any individual who was a 'qualified person' (as defined in the Regulations) in relation to the licensee 28 days immediately prior to the licensee ceasing to be a small-scale operator.

Financial robustness

Notification of shareholders

All company licensees must notify the Commission of the name and address of any person who becomes a shareholder in the company or its holding company holding 3% or more of the issued share capital of the company or its holding company; or any existing shareholder who acquires a holding of 3% or more of the issued share capital of the company or its holding company.

In this condition 'holding company' has the meaning ascribed to that term by section 1159 of the Companies Act 2006 or any statutory modification or re-enactment thereof.

Protection of customer funds

Licensees who hold customer funds for use in future gambling must set out clearly, in information made available to customers in writing, whether they protect customers' funds in the event of insolvency and the method by which this is achieved.

Cash handling

Licensees, as part of their internal controls and financial accounting systems, must have and put into effect policies and procedures concerning the handling of cash, and cash equivalents (ie bankers drafts, cheques and debit cards), designed to minimise the risk of crimes such as money laundering, to avoid the giving of illicit credit and to provide assurance that gambling activities are being conducted fairly.

General 'fair and open' provisions

Licensees must satisfy themselves that the terms on which gambling is offered are not unfair under the Unfair Terms in Consumer Contracts Regulations 1999 and, where applicable, meet the reasonableness test under the Unfair Contract Terms Act 1977. An accurate summary of the contractual terms on which gambling is offered must be made available to customers and set out in plain and intelligible language.

Customers must be notified of changes to terms before they come into effect.

Betting intermediaries

The following condition applies to betting intermediary operating licences only

Licensees must not lay bets on their own behalf when operating in their capacity as a public tic-tac on a track.

Tic-tacs must act only in relation to bets between holders of general betting operating licences (whether acting as principal or agent or through their authorised employees).

Pool betting

The following condition applies to all pool betting operating licences except those restricted to football only

Licensees must inform the Commission, within 14 days, in writing, of any person they authorise under section 93(2) of the Act to offer pool betting on a track in connection with a horserace or dog race in reliance on an occasional use notice. In doing so, they must include the terms and conditions under which this has been agreed, and provide contact details of the management and key staff of those that are authorised.

Licensees and any person they so authorise must produce and retain a record of the transactions relevant to each pool that they offer. The record must be capable of identifying individual bets into the pool and relating these to subsequent payment of winnings where applicable. Licensees must make this information available to the Commission on request.

The following condition only applies to all pool betting operating licences which authorise football pools

Licensees must inform the Commission, within 14 days, in writing, of any person they authorise under Section 93(3) of the Act in respect of football pool betting. In doing so, they must include the terms and conditions under which this has been agreed.

Licensees and any person they so authorise must produce and retain a record of the transactions relevant to each pool that they offer. The record must be capable of identifying individual bets into the pool and relating these to the subsequent payment of winnings where applicable. Licensees must make this information available to the Commission on request.

The following condition applies to all pool betting operating licences only

Licensees must produce annual accounts which should be certified by a qualified independent accountant. Licensees must make copies available to the Commission.

Access to premises

Licensees must have and put into effect policies and procedures (including staff training programmes) designed to ensure that their staff co-operate with the Commission's enforcement officers in the proper performance of their compliance functions and are made aware of those officers' rights of entry to premises contained in Part 15 of the Act.

Information requirements

Reporting suspicion of offences etc

Licensees must provide the Commission with any information that they:

- know relates to or suspect may relate to the commission of an offence under the Act, including an offence resulting from a breach of a licence condition or a code provision having the effect of a licence condition
- suspect may lead the Commission to consider making an order to void a bet.

Licensees who accept bets, or facilitate the making or acceptance of bets between others, on the outcome of horse races or other sporting events governed by one of the sport governing bodies for the time being included in Part 3 of Schedule 6 to the Act must also provide the relevant sport governing body with sufficient information to conduct an effective investigation if the licensee suspects that information in their possession may:

- lead the Commission to consider making an order to void a bet
- relate to a breach of a rule on betting applied by that sport governing body.

Reporting 'Key Events'

A key event is an event that could have a significant impact on the nature or structure of a licensee's business. Licensees must notify the Commission of the occurrence of any of the following key events as soon as reasonably practicable and in any event within five working days of the licensee becoming aware of the event's occurrence².

- in the case of licensees which are companies, a petition being presented for their winding up or the winding up of any group company of theirs, or they or any group company being placed in administration or receivership: in this condition a 'group company' is any subsidiary or holding company of the licensee – as those terms are defined in section 1159 of the Companies Act 2006 or any statutory modification or re-enactment thereof – and any subsidiary of such holding company
- in the case of a licensee who is an individual (or a partner in a partnership licensee) their being presented with a petition for their bankruptcy or sequestration or their entering into an individual voluntary agreement
- where the licensee is required to have their accounts independently audited, any unplanned change of auditor including a change prompted by a dispute or resulting from auditors being unable or unwilling to sign an unqualified audit report
- the departure from the licensee's business of any person occupying a 'qualifying position' as defined by Regulation 2(2) of the Gambling Act 2005 (Definition of Small-scale Operator) Regulations 2006
- any breach of a covenant given to a bank or other lender
- any default in making repayment of the whole or any part of a loan on its due date
- any court judgments remaining unpaid 14 days after the date of judgment
- the commencement of any material litigation against the licensee

² Key events can be reported securely online at the Commission's website at www.gamblingcommission.gov.uk or by email to key.events@gamblingcommission.gov.uk or posted to Key Events, Compliance Administration Team, Gambling Commission, Victoria Square House, Victoria Square, Birmingham B2 4BP

- the imposition of a disciplinary sanction, including dismissal, against the holder of a personal licence or a person occupying a qualifying position for gross misconduct; or the resignation of a personal licence holder or person occupying a qualifying position following commencement of disciplinary proceedings in respect of gross misconduct against that person
- in the case of remote gambling, the commencement or cessation of trading on website domains (including WAP URLs) or broadcast media through which the licensee provides gambling facilities.

General and Regulatory Returns

On request, licensees must provide the Commission with such information as the Commission may require about the use made of facilities provided in accordance with this licence, and the manner in which gambling authorised by this licence and the licensee's business in relation to that gambling are carried on, including in particular information about:

- the numbers of people making use of the facilities and the frequency of such use
- the range of gambling activities provided by the licensee and the numbers of staff employed in connection with them
- the licensee's policies in relation to, and experiences of, problem gambling.

In particular within 28 days of the end of each quarterly period or, for those only submitting annual returns, within 42 days of the end of each annual period, licensees must submit a Regulatory Return to the Commission containing such information as the Commission may from time to time require.³

Primary gambling activity

Gaming machines may be made available for use in licensed betting premises only at times when there are also sufficient facilities for betting available.

Such facilities for betting must include the provision of information that enables the customer to access details of the events on which bets can be made and to be able to place those bets, obtain details of the outcome of the events, calculate the outcome of their bets and be paid or credited with any winnings.

Where licensees provide facilities for betting only by means betting machines (machines which are designed or adapted for the purpose of making or accepting bets on future real events) the licensee must ensure that the number of betting machines is greater than the number of gaming machines which are made available for use in reliance on the premises licence.

Secretary of State General Conditions

None at present

³ Regulatory returns can be submitted securely online at the Commission's website at www.gamblingcommission.gov.uk. For operators unable to access this system, the forms and a guide to completing them can be requested from the Commission and returned by email to Regulatory>Returns@gamblingcommission.gov.uk or by post to Regulatory Returns, Compliance Administration Team, Gambling Commission, Victoria Square House, Victoria Square, Birmingham, B2 4BP

Codes of practice

Introduction

This is the Commission's principal code of practice, issued under section 24 of the Gambling Act 2005, as revised with effect from 1 January 2009. There are two types of provision in the code:

- social responsibility provisions: compliance with these is a condition of licences; therefore any breach of them by an operator may lead the Commission to review the operator's licence with a view to suspension, revocation or the imposition of a financial penalty and would also expose the operator to the risk of prosecution; and
- ordinary code provisions: these do not have the status of licence conditions, but are admissible in evidence in criminal or civil proceedings and must be taken into account in any case in which the court or tribunal think them relevant and by the Commission in the exercise of its functions. Any breach of ordinary code provisions by an operator may be taken into account by the Commission on a licence review, but cannot lead to imposition of a financial penalty. These code provisions generally set out good practice in these areas.

Financial requirements

The following code applies to all general betting operating licences, all betting intermediary operating licences and all pool betting operating licences, except those restricted to football pools only

Ordinary code provision

As part of their procedures for compliance with the requirements in respect of the prevention and detection of money laundering in the Proceeds of Crime Act 2002 and the Terrorism Act 2000, licensees should:

- unless there is a specific reason not to do so, appoint one or more nominated officers whose duty it is to take overall responsibility for the anti-money laundering procedures within the operation, in particular with respect to Suspicious Activity Reporting; and ensure, through appropriate training and guidance, that all staff who handle money or accounts or accept bets are aware of their duties under anti-money laundering legislation to report all suspicious activity to the nominated officer in a timely manner or, where there is no such nominated officer, directly and promptly to the police. It is the nominated officer's duty to consider such reports and to forward them where appropriate to the Serious Organised Crime Agency
- adopt (or reflect in their procedures) the Association of British Bookmakers' guidelines.

Ordinary code provision

In order to help prevent activities related to money laundering licensees should take into account the Commission's advice on the Proceeds of Crime Act 2002, *Duties and responsibilities under the Proceeds of Crime Act 2002. Advice for operators (excluding casino operators)*.

Protection of children and other vulnerable persons

Combating problem gambling

Social responsibility code provision

Licensees must have and put into effect policies and procedures intended to promote socially responsible gambling.

Licensees' policies and procedures for socially responsible gambling must include but need not be confined to:

- the specific policies and procedures required by the following provisions of section 2 of this code
- a commitment to and how they will contribute to research into the prevention and treatment of problem gambling
- a commitment to and how they will contribute to public education on the risks of gambling and how to gamble safely
- a commitment to and how they will contribute to the identification and treatment of problem gamblers.

Access to gambling by children and young persons

Social responsibility code provision

Licensees must have and put into effect policies and procedures designed to prevent underage gambling, and monitor the effectiveness of these.

This must include procedures for:

- checking the age of apparently underage customers
- removing from adult-only licensed premises anyone who appears to be underage who tries to access the gambling facilities and cannot produce an acceptable form of identification
- taking action when there are attempts by under-18s to enter adult-only premises
- refusing entry to any adult-only area of a track to anyone unable to produce an acceptable form of identification
- taking action when there are unlawful attempts to enter the adult-only areas.

Licensees must not deliberately provide facilities for gambling in such a way as to appeal particularly to children or, except in the case of football pools, young people, for example by reflecting or being associated with youth culture.

In premises restricted to adults, service must be refused in any circumstances where any adult is accompanied by a child or young person.

Licensees must take all reasonable steps to ensure that all staff understand their responsibilities for preventing underage gambling. This must include appropriate training which must cover the legal requirements on returning stakes and not paying prizes to underage customers.

Licensees must only accept identification which:

- contains a photograph from which the individual can be identified
- states the individual's date of birth
- is valid
- is legible and has no visible signs of tampering or reproduction.

In the case of non-remote pool betting licensees, where pool entries or payments are collected door to door by the licensee or the licensee's authorised agent the licensee's procedures must include procedures for:

- checking the age of apparently underage entrants to the pool; and
- taking action when there are unlawful attempts to enter the pool.

Ordinary code provision

The Commission considers acceptable forms of identification to include any identification carrying the PASS logo (for example Citizencard or Validate); a driving licence (including a provisional licence) with photocard; or a passport.

Licensees should put into effect procedures that require their staff to check the age of any customer who appears to them to be under 21.

Licensees should consider permanent exclusion from premises for any adult accompanied by a child or young person on more than one occasion to premises restricted to adults, or if there is reason to believe the offence was committed knowingly or recklessly.

Procedures should be put into effect for dealing with cases where a child or young person repeatedly attempts to gamble on premises restricted to adults, including oral warnings, reporting the offence to the Gambling Commission and the police, and making available information on problem gambling.

Information on how to gamble responsibly and help for problem gamblers

Social responsibility code provision

Licensees must make information readily available to their customers on how to gamble responsibly and how to access information about, and help in respect of, problem gambling.

The information must cover:

- any measures provided by the licensee to help individuals monitor or control their gambling, such as restricting the duration of a gambling session or the amount of money they can spend
- timers or other forms of reminders or 'reality checks' where available
- self-exclusion options
- information about the availability of further help or advice.

The information must be directed to all customers whether or not licensees also make available material which is directed specifically at customers who may be 'problem gamblers'.

For gambling premises, information must be available in all areas where gambling facilities are provided and adjacent to ATMs where these are not located in a gambling area. As a minimum, information must be displayed prominently on posters appropriate to the size and layout of the premises and contained in leaflets that may be taken away. Licensees must take all reasonable steps to ensure that this information is also readily accessible in locations which enable the customer to obtain it discreetly.

Ordinary code provision

Licensees who market their services in one or more foreign languages should make available in that, or those, foreign languages:

- the information on how to gamble responsibly and access to help referred to above
- the players' guides to any game, bet or lottery required to be made available to customers under provisions in this code
- the summary of the contractual terms on which gambling is offered, which is required to be provided to customers as a condition of the licensee's operating licence.

Customer interaction

Social responsibility code provision

Licensees must put into effect policies and procedures for customer interaction where they have concerns that a customer's behaviour may indicate problem gambling. The policies must include:

- identification of the appropriate level of management who may initiate customer interaction and the procedures for doing so
- the types of behaviour that will be logged/reported to the appropriate level of staff and which may trigger customer interaction at an appropriate moment
- the circumstances in which consideration should be given to refusing service to customers and/or barring them from the operator's gambling premises
- training for all staff on their respective responsibilities, in particular so that they know who is designated to deal with problem gambling issues.

But such policies and procedures must be consistent with, and implemented with due regard to, licensees' duties in respect of the health and safety of their staff.

Self-exclusion

Social responsibility code provision

Licensees must have and put into effect procedures for self-exclusion and take all reasonable steps to refuse service or to otherwise prevent an individual who has entered a self-exclusion agreement from participating in gambling.

Licensees must, as soon as practicable, take all reasonable steps to prevent any marketing material being sent to a self-excluded customer.

Licensees must take steps to remove the name and details of a self-excluded individual from any marketing databases used by the company or group (or otherwise flag that person as an individual to whom marketing material must not be sent), within two days of receiving the completed self-exclusion notification.

This covers any marketing material relating to gambling, or other activities that take place on the premises where gambling may take place. However, it would not extend to blanket marketing which is targeted at a particular geographical area and where the excluded individual would not knowingly be included.

Licensees must close any customer accounts of an individual who has entered a self exclusion agreement and return any funds held in the customer account. It is not sufficient merely to prevent an individual from withdrawing funds from their customer account whilst still accepting wagers from them. Where the giving of credit is permitted, the licensee may retain details of the amount owed to them by the individual, although the account must not be active.

Licensees must put into effect procedures designed to ensure that an individual who has self-excluded cannot gain access to gambling. These procedures must include:

- a register of those excluded with appropriate records (name, address, other details, and any membership or account details that may be held by the operator)
- photo identification (where available and in particular where enforcement of the system may depend on photographic ID), and a signature
- staff training to ensure that staff are able to enforce the systems
- the removal of those persons found in the gambling area or attempting to gamble from the premises.

Ordinary code provision

Self-exclusion procedures should require individuals to take positive action in order to self-exclude. This can be a signature on a self-exclusion form.

Wherever practicable, individuals should be able to self-exclude without having to enter gambling premises.

Before an individual self-excludes, licensees should provide or make available sufficient information about what the consequences of self-exclusion are.

Licensees should take all reasonable steps to extend the self-exclusion to premises of the same type owned by the operator in the customer's local area. In setting the bounds of that area licensees may take into account the customer's address (if known to them), anything else known to them about the distance the customer ordinarily travels to gamble and any specific request the customer may make.

Licensees should encourage the customer to consider extending their self exclusion to other licensees' gambling premises in the customer's local area.

Customers should be given the opportunity to discuss self-exclusion in private, where possible.

Licensees should take steps to ensure that:

- the self-exclusion period is a minimum of six months and give customers the option of extending this to a total of at least five years
- a customer who has decided to enter a self-exclusion agreement is given the opportunity to do so immediately without any cooling-off period. However, if the customer wishes to consider the self-exclusion further (for example to discuss with problem gambling groups) the customer may return at a later date to enter into self-exclusion
- at the end of the period chosen by the customer (and at least six months later), the self-exclusion remains in place, unless the customer takes positive action in order to gamble again. No marketing material should be sent to the individual unless the individual has taken positive action in order to gamble again, and has agreed to accept such material
- where a customer chooses not to renew the self-exclusion, and makes a positive request to begin gambling again, the customer is given one day to cool off before being allowed access to gambling facilities. The contact must be made via telephone or in person.

The licensee should retain the records relating to a self-exclusion agreement at least until the agreement has been formally ended.

(Please note that the Commission does not require the licensee to carry out any particular assessment or make any judgement as to whether the previously self-excluded individual should again be permitted access to gambling. The requirement to take positive action in person or over the phone is purely to a) check that the customer has considered the decision to access gambling again and allow them to consider the implications; and b) implement the one day cooling-off period and explain why this has been put in place.)

Employment of children and young persons

The following code applies to all pool betting operating licences restricted to football only

Ordinary code provision

Licensees who employ young persons (16 and 17 year olds) to sell tickets, collect payments or pay out winnings should have and put into effect policies and procedures designed to ensure that all staff, including staff who are young persons themselves, are made aware that the law prohibits underage gambling, and that tickets may only be sold to persons aged 16 or over.

The following code applies to all general betting and all pool betting operating licences only

Ordinary code provision

Licensees who employ children (under-16-year-olds) and young persons (those aged 16 and 17) should be aware that it is an offence:

- a) to employ children to provide facilities for gambling in connection with football pools;
- b) otherwise to employ children and young persons to provide facilities for gambling;
- c) if gaming machines are sited on the premises, for their contracts of employment to require them, or for them to be permitted, to perform a function in connection with a gaming machine at any time; and
- d) to employ them to carry out any other function on betting licensed premises while any gambling activity is being carried on in reliance on the premises licence.

As to c) it should be noted that in the Commission's view the relevant provision of the Act applies to any function performed in connection with a gaming machine. This includes servicing or cleaning such a machine.

Accordingly, licensees should have and put into effect policies and procedures designed to ensure that:

- children are never asked to perform tasks within (a) above
- children and young persons are never asked to perform tasks within b) above
- all staff, including those who are children or young persons themselves, are instructed about the laws relating to access to gambling by children and young persons

and should consider adopting a policy that:

- children and young persons are not employed to work on betting licensed premises at any time when the premises are open for business
- gaming machines are turned off if children and young persons are working on the premises outside the hours when the premises are open for business.

Provision of credit by licensees and the use of credit cards

Social responsibility code provision

Licensees who choose to accept credit cards must:

- accept payment by credit card for gambling only where that payment is made to a customer account
- make available for gambling, funds deposited via credit card only after the card issuer has approved the transaction.

The following code applies to all general betting and all pool betting operating licences only

Ordinary code provision

Licensees who choose to offer credit to members of the public who are not themselves gambling operators should also:

- have procedures for checking and scoring applications for credit from such customers, for setting, and for the increase of, credit limits
- explain these procedures to customers
- set a maximum credit limit for each customer and not permit customers to exceed that limit without further application
- apply a 24-hour delay between receiving a request for an increase in a credit limit and granting it in those cases where the limit exceeds that which the operator had previously set
- not require a minimum spend within a set time period
- take all reasonable steps to ensure that offers of credit are not sent to vulnerable persons, including those who have self-excluded from gambling
- ensure that information about an offer of credit includes a risk warning of what may happen in the event of default.

Money lending between customers

The following code applies to all general betting operating licences only

Ordinary code provision

Licensees should seek to prevent systematic or organised money lending between customers on their premises. As a minimum, they should have arrangements in place to ensure staff are requested to report any instances of substantial money lending when they become aware of them.

'Fair and open' provisions

Social responsibility code provision

Licensees must be able to provide evidence to the Commission, if required, showing how they satisfied themselves that their terms are not unfair.

The following code applies to all general betting and all betting intermediary operating licences only

Social responsibility code provision

Licensees must set out within the full rules that they make available, the core elements for the acceptance and settlement of bets. These rules must cover:

- the circumstances under which the operator will void a bet
- treatment of errors, late bets and related contingencies
- availability of odds for any ante-post, early show or starting price betting, and treatment of place, forecast bets etc
- treatment of withdrawals, non-runners, and reformed markets
- maximum payout limiting liability for a specific betting product or generally
- any charges made to customers for the use of betting services or products, and how these are calculated (including deductions from winnings for commission, or in respect of withdrawn horses etc)
- means or medium by which the outcome of an event will be determined
- the rules for the event itself to be specified (eg horserace bets only to be accepted where the racing is subject to Horseracing Regulatory Authority rules)
- where bets are accepted on 'pari-mutuel' terms
- any special arrangements for settling bets on 'coupled' horses.

Where special rules have been agreed in relation to a particular bet these must not be overridden by any conflicting rules or subsequent rule changes.

Licensees must issue a betting slip or an electronic acknowledgement (other than in the case of telephone betting) for each transaction which includes information as to the operator's name and contact details, and words equivalent to 'Bets are accepted in accordance with the operator's rules'.

Marketing

Social responsibility code provision

If a licensee makes available to any customer or potential customer any incentive or reward scheme or other arrangement under which the customer may receive money, goods, services or any other advantage (including the discharge in whole or in part of any liability of his) ('the benefit') the scheme must be designed to operate, and be operated, in such a way that:

- a) the circumstances in which, and conditions subject to which, the benefit is available are clearly set out and readily accessible to the customers to whom it is offered;
- b) neither the receipt nor the value or amount of the benefit is:
 - (i) dependent on the customer gambling for a pre-determined length of time or with a pre-determined frequency; or
 - (ii) altered or increased if the qualifying activity or spend is reached within a shorter time than the whole period over which the benefit is offered;
- c) if the value of the benefit increases with the amount the customer spends it does so at a rate no greater than that at which the amount spent increases;

and further that:

- d) if the benefit comprises free or subsidised travel or accommodation which facilitates the customer's attendance at particular licensed premises the terms on which it is offered are not directly related to the level of the customer's prospective gambling.

Ordinary code provision

Licensees should only offer incentive or reward schemes in which the benefit available is proportionate to the type and level of customers' gambling.

Ordinary code provision

All advertising of gambling products and services should be undertaken in a socially responsible manner. In particular, licensees should comply with the advertising codes of practice which apply to the form and media in which they advertise their gambling facilities or services, and for media not explicitly covered should apply the principles included in these codes of practice as if they were explicitly covered. Licensees should also follow any relevant industry code of practice on advertising.

However, the particular restriction on allowing people aged under 25 to appear in adverts need not be applied to point of sale advertising material, provided that the images used depict the sporting activity that may be gambled on and not the activity of gambling itself and do not offend any other aspect of the advertising codes.

Complaints and disputes

Social responsibility code provision

Licensees must put into effect a written procedure for handling customer complaints and disputes.

In this code a 'complaint' means a complaint about any aspect of the licensee's conduct of the licensed activities, and a 'dispute' is any complaint which:

- a) is not resolved at the first stage of the complaints procedure; and
- b) relates to the outcome of the complainant's gambling transaction.

Licensees must ensure that:

- customers are told the name and status of the person to contact about their complaint
- customers are given a copy of the complaints procedure on request or on making a complaint
- all complaints are handled in accordance with the procedure.

Licensees must also ensure that they have arrangements in place for disputes to be referred to an independent third party. Customers whose disputes are not resolved to their satisfaction by use of the operator's complaints procedure may refer those disputes to this independent third party. The arrangements under which such complaints are referred may, but need not, provide for the third party's decision to be binding on the licensee and the customer.

Licensees must keep a record of all complaints that are not resolved at the first stage of the complaints procedure.

Licensees must arrange for a copy of the decision on, or a note of the outcome of, each dispute referred to the independent party to be provided to the Commission quarterly, either by the independent party or by the licensee.

Gambling licensees' staff

Social responsibility code provision

Licensees must take all reasonable steps to ensure that staff involved in the provision of facilities for gambling are made aware of advice on socially responsible gambling and of where to get confidential advice should their gambling become hard to control.

Information requirements

Ordinary code provision

The Commission expects licensees to work with the Commission in an open and cooperative way and to inform the Commission of any matters that the Commission would reasonably need to be aware of in exercising its regulatory functions. These are matters that will have a material impact on the licensee's business or on the licensee's ability to conduct its business. Such matters, which should be notified to the Commission as soon as reasonably practicable⁵, include the following:

- the departure from the licensee's business of any person named in the licence application, or that person's successor, who holds a personal management licence, but who does not occupy a 'qualifying position'
- any reduction in the number of staff employed by the licensee where that has a material impact on the licensee's business
- the acquisition or disposal by the licensee of gambling premises or pitches where that has a material impact on the size or nature of the licensee's business
- in the case of corporate licensees, the disposal or acquisition of any group company where that has a material impact on the licensee's ability to conduct its business
- any disposal of the licensee's assets where that has a material impact on the licensee's business
- any investigation by a professional, statutory, regulatory or government body into the licensee's activities, or the activities in relation to the licensed entity of a personal licence holder or a person occupying a qualifying position employed by them, where such an investigation could result in the imposition of a sanction or penalty which, if imposed, could reasonably be expected to raise doubts about the licensee's continued suitability to hold a Gambling Commission licence
- any instance of criminal activity, including repeated instances of small-scale theft or fraud, where that has a material impact on the licensee's business
- any major breach in the licensee's information security where that adversely affects the confidentiality of customer data or prevents customers from accessing their accounts for a substantial period of time
- any other matters that have a material impact on the licensee's business or on the licensee's ability to conduct its business.

⁵ These matters can be reported securely online at the Commission's website at www.gamblingcommission.gov.uk or by email to key.events@gamblingcommission.gov.uk or posted to Key Events, Compliance Administration Team, Gambling Commission, Victoria Square House, Victoria Square, Birmingham, B2 4BP

Primary gambling activity

Ordinary code provision

In order to demonstrate that the primary gambling activity for which an operating licence has been issued is being offered in each licensed premises, licensees should have regard to the following general factors:

- the ratio of the space available to customers allocated to the primary gambling activity, to that allocated to other gambling activities
- the extent to which the primary gambling activity is promoted on the premises and by way of external advertising compared to other gambling activities
- the use, either expected or actual, to be made of the different gambling facilities

Licensees should also have regard to the following additional sector specific factors:

Ordinary code provision

- the range and frequency of events on which bets can be made.

Not all the indicators would need to be present in a particular case, nor do they preclude others, but the combination of those factors that are present should be sufficient to indicate that the activity is the primary one in any given premises.