

## APPENDIX 3

### Part 9: Premises licence conditions

**9.1** The Act provides that licences may be subject to conditions 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 attaching 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 s.153. Accordingly, if the Commission's *Licence Conditions and Codes of Practice* (LCCP) or other legislation places particular responsibilities or restrictions on an employer or the operator of premises, it is not appropriate to impose the same through conditions on a premises licence.

#### Conditions and authorisations by virtue of the Act

**9.4** The following paragraphs set out specific 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 / Scottish Ministers may make regulations requiring these conditions to be set out on the premises licence, and there is no discretion to decide not to include them or to modify them. The table after paragraph 9.18 summarises which sections of the Act apply to which types of premises licences.

#### **S.172 – number of gaming machines**

**9.5** S.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.

#### **S.173 – betting on virtual events**

**9.6** S.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 virtual horse and greyhound racing which are person-to-person transactions, involving virtual images that are not displayed on a machine.

#### **S.174 – gambling in addition to casino games**

**9.7** S.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:

- 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 nor prohibit casino games that have not been prohibited by the Commission. Part 17 of this Guidance provides details of the casino games authorised by the Commission.

#### **S.176 – access by children and young persons to casinos**

**9.9** S.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 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** S.176 makes it a condition of the premises licence that the licensee must comply with the code of practice issued by the Commission. Licensing authorities should note that the requirement under s.176 for supervision at each entrance is separate to any other condition that may be attached relating to 'door supervision' more generally.

### **S.177 – giving of credit**

**9.11** S.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, s.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<sup>21</sup>.

**9.13** S.177 deals with the prohibition of credit in respect of casino and bingo premises licences. However equivalent prohibitions are placed on bingo and casino operating licences, as set out in s.81 of the Act, credit and inducements.

### **S.178 – door supervision**

**9.14** If a licensing authority attaches a condition relating to door supervision, and the person carrying out those duties are required by the Private Security Industry Act 2001 (PSIA) to hold a licence, s. 178 of the Gambling Act 2005 prescribes that the requirement under PSIA will be treated as if 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.

**9.15** S.178 defines door supervision as requiring someone to be responsible for 'guarding the premises against unauthorised access or occupation, against outbreaks of disorder or against damage'.

<sup>21</sup> Part 1(5) of The Gambling Act 2005 (Mandatory and Default Conditions) Regulations

### **S.179 – pool betting**

**9.16** S.179 provides that a betting premises licence in respect of a track 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 them. 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. As part of the sale process Betfred received an exclusive seven year licence (until July 2018) to operate pool betting operations on UK racecourses.

### **S.182 – access by children and young persons to tracks**

**9.17** S.182 applies only to a betting premises licences in respect of 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 at dog and horse racing tracks, that is on those days when racing occurs or is expected to take place. In those cases, 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.

### **S.183 – Christmas day**

**9.18** S.183 applies a condition to all premises licences that facilities for gambling must not be provided on Christmas Day, namely the period of 00.01 hours on 25 December until 00.00 hours on 26 December.

#### **Type of premises licence**

##### **Section of the Act**

s.172 s.173 s.174 s.176 s.177 s.178 s.179 s.182 s.183

All premises licences **X X X**

Bingo premises licence **X**

Casino premises licence **X X X**

Small casinos **X**

Large casinos **X**

Betting premises licence **X**

Betting premises licence

in respect of a track

**X X**

### **Conditions attached through regulations made by the Secretary of State or Scottish Ministers – all premises**

**9.19** The Secretary of State and Scottish Ministers have set out conditions to be attached to all premises licences in the Gambling Act 2005 (Mandatory and Default Conditions) (England and Wales) Regulations 2007 and the Gambling Act 2005 (Mandatory and Default Conditions) (Scotland) Regulations 2007.<sup>22</sup>

**9.20** Conditions under these Regulations fall into two categories:

- mandatory conditions made under s.167 of the Act that must be attached to premises licences
- default conditions made under s.168 of the Act, that attach to the premises licence unless the licensing authority decides to exclude them, using its powers under s.169.

<sup>22</sup> SI 2007/1409: Gambling Act 2005 (Mandatory and Default Conditions) (England and Wales) Regulations 2007  
SSI 2007/266: Gambling Act 2005 (Mandatory and Default Conditions)(Scotland) Regulations 2007

**9.21** Licensing authorities should note that mandatory conditions made under these regulations are set 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 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.

**9.22** Mandatory conditions applying to all premises licences are set out at paragraph 9.25 onwards. In addition, there are mandatory conditions that relate to particular category of premises licences. Details of these can be found in Parts 17-22 of this Guidance.

**9.23** 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 reflect normal industry operating practices. In circumstances where default conditions are excluded, the Commission would generally expect them to be replaced by other conditions, given the requirements of s.153. Where the condition is more

restrictive, the licensing authority should ensure that they have clear regulatory reasons doing so.

**9.24** Default conditions under the regulations set out above relate to particular categories of premises licence and details can be found in Parts 17-22 of this Guidance.

### **Mandatory conditions**

**9.25** The following mandatory conditions apply to all premises licences:

- the summary of the premises licence issued by the licensing authority must be displayed in a prominent place on the premises. In England and Wales this must include a summary of the terms and conditions of the premises licence.
- 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 in England and Wales. Sale of National Lottery and private lottery tickets are prohibited in Scotland.

**9.26** 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 Act and another premises licensed under the Act, with the following exceptions:

- between licensed betting premises
- between bingo premises and alcohol-licensed premises/clubs with a club gaming or club machine permit/family entertainment centres (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.

### **Default conditions**

**9.27** S.169 of the Act gives licensing authorities:

- the ability to exclude from premises licences any default conditions that have been imposed under s.168
- the power to impose conditions on premises licences that they issue.

**9.28** Licensing authorities should make decisions on conditions on a case-by-case basis, and

in the context of the principles of s.153. They must aim to permit the use of premises for gambling and so should not attach conditions that limit their use except where it is necessary in accordance with the licensing objectives, the Commission's codes of practice and this Guidance, or their own statement of policy. 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** Licensing authority statements of policy will need to consider the local circumstances which might give rise to the need for conditions. Where there are specific risks associated with a particular locality, the licensing authority might decide to attach conditions to the premises licence to mitigate those risks. For example, local issues associated with a high crime rate may put a premises at risk of not being consistent with the licensing objectives, and specific conditions may be necessary to address the risk.

**9.30** Where there are risks associated with a specific premises or class or premises, the licensing authority may consider it necessary to attach conditions to the licence to address those risks, taking account of the local circumstances.

**9.31** 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 (including the locality and any identified local risks) and the type of licence applied for
- fairly and reasonably related to the scale and type of premises
- reasonable in all other respects.

### **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:

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