



# Gambling Act 2005

## Information Sheet

### Bingo

#### Background

Bingo was not given a statutory definition in previous legislation, and the Gambling Act 2005 (“the Act”) does not contain one either. It is to have its ordinary and natural meaning. Under the previous legislation, two types of bingo could be offered:

- Cash bingo, where the stakes paid made up the cash prizes that were won; or
- Prize bingo, where various forms of prizes were won, not directly related to the stakes paid.

Traditionally, cash bingo was the main type of bingo played in commercial bingo halls (Part II of the Gaming Act 1968). They could also offer prize bingo, largely as interval games (section 21 of the 1968 Act). Under the 2005 Act, the distinction between these two versions of the game is being abolished for commercial operators, and the holder of a bingo operating licence will be able to offer any type of bingo game, whether cash or prize. That means that premises with a bingo premises licence, or a casino premises licence (where the operator holds a bingo as well as a casino operating licence), will be able to offer bingo in all its forms.

Apart from commercial bingo halls, prize bingo is traditionally a game played in arcades, especially seaside amusement arcades, or travelling funfairs. For these operators, prize bingo is being included within the allowances for prize gaming in the Act. This means that adult gaming centres (AGCs), both licensed and unlicensed family entertainment centres (FECs) and travelling fairs, (or any premises with a prize gaming permit) will be able to offer prize gaming, which includes prize bingo.

In this form of gaming, the nature of the prize must not be determined by reference to the number of people playing the game, and the nature or the size of the prize must not be determined by reference to the amount paid for or raised by the gaming.

## Protection of children

It is important that if children are allowed to enter premises licensed for bingo that they do not participate in gambling, other than on Category D machines. Where Category C or above machines are available in premises to which children are admitted licensing authorities should ensure that:

- All such machines are located in an area of the premises separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
- Only adults are admitted to the area where these machines are located;
- Access to the area where the machines are located is supervised;
- The area where the machines are located is arranged so that it can be observed by staff of the operator or the licence holder; and
- At the entrance to, and inside any such area there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

Under the Act, children and young persons (anyone up to the age of 18) cannot be employed in providing any facilities for gambling on bingo premises, and children under the age of 16 cannot be employed, in any capacity, at a time when facilities for playing bingo are being offered. However, young persons, aged 16 and 17, may be employed in bingo premises (while bingo is being played), provided the activities on which they are employed are not connected with the gaming or gaming machines.

## Gaming machines

Section 172(7) of the Act 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. Premises in existence before 13 July 2011 are entitled to make available 8 category B gaming machines, or before 13 July 2011 are entitled to make available 8 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 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 bingo premises should be restricted to sub-category B3 and B4 machines, but not B3A lottery machines.

Equipment operated by a bingo operating licence for the purpose of playing bingo, e.g. what are currently known as mechanised cash bingo and electronic bingo ticket minders (EBTs), will be exempt from controls on gaming machines provided they comply with any conditions set by the Gambling Commission.

## **Bingo in clubs and alcohol licensed premises**

Bingo is a class of equal chance gaming that will be permitted on alcohol-licensed premises, and in clubs and miners' welfare institutes, under the allowances for exempt gaming in Part 12 of the Act. These allowances replace what was permitted by section 6 and Part II (clubs) of the Gaming Act 1968. There will be regulations setting controls on this form of gaming, to ensure it remains a low-level activity.

In addition, new rules are laid down in the Act about the playing of bingo specifically in alcohol-licensed premises, clubs and miners' welfare institutes. Where the level of bingo played in these premises, under the exempt gaming allowances, reaches a certain threshold, it will no longer be authorised by these allowances, and a bingo operating licence will have to be obtained from the Commission for future bingo games. The aim of these provisions is to prevent bingo becoming a predominant commercial activity on such non-gambling premises.

The threshold is that if the bingo played during any seven day period exceeds £2,000 (either in money taken or prizes awarded), all further games of bingo played on those premises for the next 12 months will require an operating licence to be legal. This applies to future games which are over the threshold of £2,000. If, after a single incidence of "high turnover" bingo, all further games are below the threshold, no operating licence is needed. There is a legal duty on the licensee or club to inform the Commission if at any point its bingo in any seven-day period exceeds this threshold. That allows the Commission to monitor the bingo activity on the premises, and discuss with the relevant licensee or club the need to obtain a bingo operating licence.

If it comes to the attention of licensing authorities that alcohol-licensed premises or clubs or institutes are playing bingo during the course of a week which involves significant stakes and prizes, that makes it possible that the £2,000 in seven days is being exceeded, authorities should inform the Commission.

## **Bingo in casinos**

Two of the categories of new casino permitted under the Act will be entitled to provide facilities for bingo. The regional and eight large casinos will be able to offer bingo. Bingo will be permitted as part of their casino premises licence and they will not require a separate bingo premises licence, though they will need to obtain a bingo operating licence (which may be combined with their casino licence) in order to offer facilities for bingo at a casino. The standards in this respect will be no lower than for operators seeking only to provide facilities for bingo alone.

## **Bingo premises licence conditions**

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

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

- By local Licensing Authorities via the premises licence.

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

## **Conditions under the Act**

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

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

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

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

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

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

## **Conditions under statutory regulations**

These types of conditions fall into two categories:

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

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

# Role of Licensing Authorities

## Mandatory conditions

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

## Default conditions

Licensing Authorities have more flexibility in relation to default conditions. A Licensing Authority may exclude a default condition, and substitute it with one that is either more or less restrictive. It should be noted however that default conditions are intended to be the basic industry norm.

While, having regard to the requirements of section 153 of the Act <sup>1</sup>, the Commission would expect default conditions to be excluded and replaced with less rigid conditions on a relatively regular basis, Licensing Authorities should ensure that they have clear regulatory reasons for excluding default conditions and replacing them with more restrictive ones.

## Conditions that may not be attached by Licensing Authorities

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

- **Section 169(4)** – Prohibits the Licensing Authority from imposing a condition on the premises licence which makes it impossible to comply with an operating licence condition;
- **Section 172(10)** – Provides that conditions may not relate to gaming machine categories, numbers, or method of operation;

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

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

- **Section 170** – Provides that membership of a club or body cannot be required by attaching a condition to the premises licence. The Act specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated; and
- **Section 171** – Prevents an authority imposing conditions in relation to stakes, fees, winnings or prizes.

## **Gaming machines**

### **Background**

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

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

### **Gambling Commission**

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

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

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

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

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

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

### **Age restrictions**

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

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

**Table A – Categories of gaming machines**

Category of machine	Maximum Stake	Maximum Prize
A	Unlimited	Unlimited
B1	£5	£10,000 <sup>2</sup>
B2	£100	£500
B3	£2	£500
B3A	£2	£500
B4	£2	£400
C	£1	£100
D - non-money prize (not crane grab)	30p	£8
D - non-money prize (crane grab)	£1	£50
D - Money prize	10p	£5
D - combined money and non-money prize (coin pusher/penny falls)	20p	£20 (of which no more than £10 may be a money prize)
D - combined money and non-money prize (other than coin pusher or penny falls)	10p	£8 (of which no more than £5 may be a money prize)

<sup>2</sup> With option of maximum £20,000 linked progressive jackpot on premises basis only

**Table B – Maximum number of machines by premises type**

Premises Type	Machine Category						
	A	B1	B2	B3	B4	C	D
Regional casino (machine/table ratio of 25-1 up to maximum)	Maximum of 1250 machines Any combination of machines in categories A to D within the total limit of 1250 (subject to table ratio)						
Large casino (machine/table ratio of 5-1 up to maximum)		Maximum of 150 machines Any combination of machines in categories B to D within the total limit of 150 (subject to table ratio)					
Small casino (machine/table ratio of 2-1 up to maximum)		Maximum of 80 machines Any combination of machines in categories B to D within the total limit of 80 (subject to table ratio)					
Pre-2005 Act casinos (no machine/table ratio)		Maximum of 20 machines categories B to D (except B3A machines) <b>OR</b> any number of C or D machines instead					
Betting premises & tracks occupied by Pool Betting			Maximum of 4 machines categories B2 to D (except B3A machines)				
Bingo Premises				Maximum of 20% of the total number of gaming machines which are available for use on the premises categories B3 or B4*	No limit on category C or D machines		
Adult gaming centre				Maximum of 20% of the total number of gaming machines which are available for use on the premises categories B3 or B4*	No limit on category C or D machines		

\* Adult gaming centres and bingo premises are entitled to make available 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. Premises in existence before 13 July 2011 are entitled to make available four (adult gaming centre premises) or eight (bingo premises) category B gaming machines, or 20% of the total number of gaming machines, whichever is the greater. Adult gaming centre premises and bingo premises granted on or after 13 July 2011 but before 1 April 2014 are entitled to a maximum of four or eight category B 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. But not B3A machines.

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Premises Type	Machine Category						
	A	B1	B2	B3	B4	C	D
Family entertainment centre (with premises licence)						No limit on category C or D machines	
Family entertainment centre (with permit)							No limit on category D machines
Clubs or miners' welfare institutes (with permits)				Maximum of 3 machines in categories B3A, B4 to D <sup>#</sup>			
Qualifying alcohol licensed premises						1 or 2 machines of category C or D automatic upon notification	
Qualifying alcohol licensed premises (with gaming machine permit)						Number of category C-D machines as specified on permit	
Travelling fair							No limit on category D machines
	<b>A</b>	<b>B1</b>	<b>B2</b>	<b>B3</b>	<b>B4</b>	<b>C</b>	<b>D</b>

premises granted on or after 13 July 2011 but before 1 April 2014 are entitled to a maximum of four or eight category B 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. But not B3A machines.

<sup>#</sup> It should be noted that members' clubs and miners' welfare institutes are entitled to site a total of three machines in categories B3A to D but only one B3A machine can be sited as part of this entitlement. Commercial clubs are entitled to a total of three machines in categories B4 to D.

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

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

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

- 1) The summary of the terms and conditions of the premises licence issued under section 164(1)(c) of the 2005 Act shall be displayed in a prominent place within the premises;
- 2) The layout of the premises shall be maintained in accordance with the plan;
- 3) The premises shall not be used for:-
  - (a) the sale of tickets in a private lottery or customer lottery,<sup>3</sup> or
  - (b) the sale of tickets in any other lottery in respect of which the sale of tickets on the premises is otherwise prohibited.<sup>4</sup>

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

- 1) A notice stating that no person under the age of 18 years is permitted to play bingo on the premises shall be displayed in a prominent place at every entrance to the premises.
- 2) No customer shall be able to enter the premises directly from any other premises in respect of which one of the following permissions has effect:-
  - (a) a casino premises licence;
  - (b) an adult gaming centre premises licence; and
  - (c) a betting premises licence other than a track premises licence;
- 3) – (1) This paragraph shall apply where children or young persons or both are permitted by the licence holder to enter the premises, and Category B or C gaming machines are made available for use on the premises.

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<sup>3</sup> A “private lottery” means a private society lottery or a work lottery within the meaning of paragraphs 10 and 11 of Schedule 11 to the 2005 Act; and

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

<sup>4</sup> See the National Lottery Regulations 1994 (S.I 1994/189) which prohibits the sale of National Lottery tickets in specified premises licensed for gambling activities.

- (2) Any area of the premises to which Category B and C gaming machines are located:
    - (a) shall 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;
    - (b) shall be supervised at all time to ensure children or young persons or both do not enter the area; and
    - (c) shall be arranged in such a way that ensures all parts of the area can be observed by the persons mentioned in sub-paragraph (3).
  - (3) The reference to supervision in this paragraph means supervision by:
    - (a) one or more persons whose responsibilities include ensuring children or young persons or both do not enter the area; or
    - (b) closed circuit television which is monitored by one or more persons whose responsibilities include ensuring that children or young person or both do not enter the area.
  - (4) A notice stating that no person under the age of 18 years is permitted to enter the area shall be displayed in a prominent place at the entrance to any area of the premises in which Category B or C gaming machines are made available for use.
- 4) - (1) In the case of a charge for admission to the premises, a notice of that charge shall be displayed in a prominent place at the principal entrance to the premises.
- (2) In the case of any other charges in respect of gaming, a notice setting out the information in sub-paragraph (3) shall be displayed at the main point where payment for the charge is to be made.
  - (3) The notice in sub-paragraph (2) shall include the following information:
    - (a) the cost (in money) of each game card (or set of game cards) payable by an individual in respect of a game of bingo;
    - (b) in respect of each game card (or set of game cards) referred to in paragraph (a) the amount that will be charged by way of a participation fee for entitlement to participate in that game; and
    - (c) a statement to the effect that all or part of the participation fee may be waived at the discretion of the person charging it.
  - (4) The notice may be displayed in electronic form.

- (5) A reference in this paragraph to a charge in respect of gaming does not include an amount paid for an opportunity to win one or more prizes in gaming to which section 288 of the 2005 Act (meaning “prize gaming”) applies.
- 5) - (1) The rules of each type of game that is available to be played on the premises other than games played on gaming machines shall be made available to customers within the premises.
  - (2) The condition in sub-paragraph (1) may be satisfied by:
    - (a) displaying a sign setting out the rules,
    - (b) making available leaflets or other written material containing the rules, or
    - (c) running an audio-visual guide the rules prior to any bingo game being commenced.
- 6) Any ATM made available for use on the premises shall be located in a place that requires any customer who wishes to use it to cease gambling in order to do so.

## **Default conditions to be attached to Bingo premises licences**

- 1) Subject to paragraph 2, no facilities for gambling shall be provided on the premises between the hours of midnight and 09:00 am.
- 2) The condition in paragraph 1 shall not apply to making gaming machines available for use.