

Definition of premises

The Gambling Commission (the Commission) intends to strengthen the guidance it issues to local authorities under section 25 of the Gambling Act 2005 (the Act) relating to the definition of premises. This will include changes to part seven of the 'Guidance to Licensing Authorities (2nd edition June 2007)' document. This has been prompted by increasing numbers of premises licence applications being made to licensing authorities which appear to be in conflict with the intentions of Parliament.

The intention of Parliament regarding the definition of premises

Parliament's intention relating to the number of higher category gaming machines available for use in gambling premises is set out on the face of the Act. In particular, section 172 the Act places restrictions on the number and categories of gaming machines that can be made available in casinos, bingo premises, betting premises and adult gaming centres.

Parliament's intention relating to access between different types of gambling premises is set down in regulations, through the Gambling Act 2005 (Mandatory and Default Conditions) (England and Wales) Regulations 2007 (SI 2007/1409) and the Gambling Act 2005 (Mandatory and Default Conditions) (Scotland) Regulations 2007 (SSI 2007/266). The Government's intention behind restricting access between certain gambling premises in this way is set down in the Department for Culture, Media and Sports' document 'Explanatory Memorandum to the Gambling Act 2005 (Mandatory and Default Conditions) (England and Wales) Regulations 2007'. Paragraph 7.6 of this document reads:

"The Act provides that...a single premises may not have more than one premises licence authorising a type of gambling activity. There were concerns that some unscrupulous operators might seek to circumvent this by artificially subdividing their premises and securing separate premises licences for its composite parts, which would undermine the different categories of premises licence created by the Act... we wanted to ensure that operators do not circumvent the rules governing the maximum number of gaming machines of Category B and above permitted in different premises. And finally, we were determined to ensure that all gambling premises have publicly accessible entrances, and are not developed in the backrooms of other commercial premises. The department decided to address these concerns by proposing conditions which restricted the access between different types of gambling premises."

The full text of the Explanatory Memorandum can be found [here](#). It refers only to the regulations for England and Wales, however the Memorandum also reflects the policy intentions behind the equivalent Scottish regulations.

Strengthening the guidance

Currently, the Commission's guidance at paragraphs 7.11 and 7.12 of the 'Guidance to Licensing Authorities (June 2007)' document describes what may be considered as a premises. Paragraph 7.1 states that:

"...there is no reason 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."

However, this paragraph goes on to describe that this approach has been taken in order to allow large, multiple unit premises to obtain premises licences, as long as appropriate safeguards are in place. Any sub-division of an existing premises must of course comply with the mandatory conditions relating to access between premises. Paragraph 7.12 then suggests that whether different parts of a building can properly be regarded as being separate premises will depend on the circumstances such as its location and the suitability of the separation. The guidance also states that the Commission does not consider that areas of a building that are artificially or temporarily separated can properly be regarded as different premises.

We intend to add a further section to this part of the 'Guidance to Licensing Authorities (June 2007)' document to further emphasise Parliament's intentions of the Act regarding the definition of premises, and to make clear that premises existing under the Act must be genuinely separate with the required access and supervision requirements in place.

The new section will also include guidance on providing the principal gambling activity in all premises licensed under the Act. This is to assist licensing authorities considering applications for multiple premises licences on a single site, where they need to be satisfied that the primary purpose of the premises licence is being fulfilled, ie betting facilities are provided in a betting shop, players can fully participate in bingo at all bingo premises, and so on.

This updated guidance will be based around our position as set out in our open letter to trade associations: [first letter](#), and our follow-up letter which confirms that there needs to be an acceptable balance between the provision of the principal gambling activity and the provision of gaming machines: [second letter](#).

Next steps

The Commission is committed to full consultation on any changes to the 'Guidance to Licensing Authorities (June 2007)' document. We expect to issue a consultation paper in May 2008 detailing our proposed revisions to our guidance, and will publish a final version during the summer.

The Commission will continue to monitor the way in which operators seek to use the provisions of the Act. If it becomes clear that operators are attempting to provide what are, in effect, higher category machine arcades under the guise of either a betting or bingo premises licence with only token betting or bingo provision we will not hesitate to introduce operating licence conditions and / or recommend to the Department for Culture, Media and Sports and Scottish Ministers that additional regulations are required to underpin the clear policy intentions of the Act.

Licensing authorities that are currently considering premises licence applications to divide an existing premises into multiple premises may wish to refer to the sections of the Explanatory Memorandum highlighted above, and to the Commission's draft revised guidance which we will shortly be consulting on. We will consider also the application of our updated guidance towards premises that have already been divided.

If the premises licence applications refer to bingo premises licences, licensing authorities are reminded that the Commission has published an information paper summarising some considerations, which is available [here](#).