STATUTORY INSTRUMENTS

2006 No. 3266

BETTING, GAMING AND LOTTERIES

The Gambling Act 2005 (Definition of Small-scale Operator) Regulations 2006

Made - - - -	*6th December 2006*
Laid before Parliament	*7th December 2006*
Coming into force - -	*1st January 2007*

The Secretary of State, in exercise of the powers conferred by section 129(2) of the Gambling Act 2005(**a**), makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Gambling Act 2005 (Definition of Small-scale Operator) Regulations 2006 and shall come into force on 1st January 2007.

(2) In these regulations "the Act" means the Gambling Act 2005.

Definition of small-scale operator

2.—(1) For the purposes of section 129 of the Gambling Act 2005, and subject to regulation 3, the holder of an operating licence (the licensee) is a small-scale operator if, in relation to the activity authorised by that operating licence (the licensed activity)—

(a) there are no more than 3 qualifying positions in or in respect of the licensee or in connection with the licensed activity, and

(b) each qualifying position is occupied by a qualified person.

(2) In this regulation "qualifying position" means a position which is held by a person who, by the terms of his appointment, has primary responsibility for—

(a) the management of the licensed activity;

(b) the management of the financial affairs of the licensee;

(c) ensuring the licensee complies with the requirements of the Act;

(d) the marketing of the licensed activity;

(e) the management of the information technology facilities used in the provision of the licensed activity;

(f) the management of the licensed activity for a particular locality or area in Great Britain in which there are situated 5 or more sets of premises in respect of each of which the licensee holds a premises licence; or

(**a**) 2005 c.19

(g) the management of a single set of premises in respect of which a casino or bingo premises licence has effect.

(3) In this regulation "qualified person" means a person who is—

(a) named on the operating licence as a person who holds a qualifying position; or

(b) the subject of an application to vary the operating licence under section 104(1)(b) of the Act (application to vary licence) to add his name as a person holding a qualifying position, and—

(i) the application complies with sections 69(2)(g)(**a**) (fee) and 104(5) (accompanying statement) of the Act; and

(ii) the application has not been withdrawn or finally determined.

(4) For the purposes of paragraph (3) an application to vary an operating licence, which has been rejected by the Gambling Commission, is to be treated as having been finally determined—

(a) where there is no appeal to the Gambling Appeals Tribunal, on the expiry of the period for appealing;

(b) where such an appeal is made, and the appeal is either withdrawn or allowed, (subject to sub-paragraph (e)) when the appeal is withdrawn, or, as the case may be, determined;

(c) where the appeal to the Gambling Appeals Tribunal is refused and no appeal is made under section 143 of the Act, on the expiry of the period for appealing against the decision of the Gambling Appeals Tribunal;

(d) where an appeal is made under section 143 of the Act, (subject to sub-paragraph (e)) on the date on which the appeal is determined or withdrawn;

(e) where the result of an appeal is that the matter is remitted to the body against whose decision the appeal is made, when any subsequent proceedings relating to the decision to reject the application are finally determined (as determined in accordance with sub-paragraphs (a) to (d)).

Loss of Exemption

3. For the purposes of section 129 of the Act a person shall not cease to be a small-scale operator if he no longer complies with the conditions specified in regulation 2 unless he fails to comply with them—

(a) for a period of more than 28 days; or

(b) for two periods, each of more than 14 days, where one period occurs within 28 days of the other.

Richard Caborn
Minister of State
Department for Culture, Media and Sport

6th December 2006

(**a**) Section 69(2)(g) applies to applications to vary by virtue of section 104(3) of the Gambling Act 2005.

EXPLANATORY NOTE

(This note is not part of the Order)

Under section 80 of the Gambling Act 2005 ("the Act") every operating licence issued by the Gambling Commission under Part 5 of the Act must be subject to a condition ensuring that at least one person occupies a specified management office in relation to that licence, and that this person holds a personal licence authorising the performance of the functions of that office. Section 80 also provides the Gambling Commission with powers to impose further conditions on operating licences requiring specified management offices or specified operational functions to be performed by the holder of a relevant personal licence.

Section 129 of the Act provides an exemption from these personal licensing requirements in circumstances where the holder of an operating licence is a small-scale operator. These Regulations define the meaning of "small-scale operator".

The holder of an operating licence will qualify as a small-scale operator if he satisfies the condition that, in relation to the relevant licensed activities, there are no more than three *qualifying positions* which, in each case, are occupied by a *qualified person*. Regulations 2(2) and (3) provide definitions for each of these terms.

By virtue of Regulation 3, an operator who qualifies as a small-scale operator will only lose this exemption if he fails to meet the necessary condition in regulation 2 for a period of more than 28 days, or for two periods of more than 14 days each, which occur within 28 days of one another.

Terms not defined in the Regulations are defined in the Act.

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£3.00

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E1551 12/2006 161551T 19585