

Gambling (Licensing and Advertising) Bill

EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by the Department for Culture, Media and Sport, are published separately as Bill 8 – EN.

EUROPEAN CONVENTION ON HUMAN RIGHTS

Secretary Maria Miller has made the following statement under section 19(1)(a) of the Human Rights Act 1998:

In my view the provisions of the Gambling (Licensing and Advertising) Bill are compatible with the Convention rights.

Gambling (Licensing and Advertising) Bill

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TO

Make provision about the licensing and advertising of gambling.

BE IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Licensing

1 Licensing of remote gambling

- (1) In section 33 of the Gambling Act 2005 (provision of facilities for gambling), after subsection (3) insert—
- “(3A) Section 36(3A) limits the application of this section in cases involving the use in Great Britain of certain facilities for remote gambling.” 5
- (2) *In section 36 of that Act (territorial application: provision of facilities for gambling), for subsection (3) substitute—*
- “(3) *Section 33 applies to the provision of facilities for remote gambling only if—*
- (a) *at least one piece of remote gambling equipment used in the provision of the facilities is situated in Great Britain, or* 10
- (b) *no such equipment is situated in Great Britain but the facilities are used there.*
- (3A) *In a case within subsection (3)(b), the person providing the facilities commits an offence under section 33 only if the person knows or should know that the facilities are being used, or are likely to be used, in Great Britain.* 15
- (3) In section 26B of the Betting and Gaming Duties Act 1981 (remote gaming duty), omit paragraph (a) (and the “or” at the end).
- (4) The Secretary of State may by order made by statutory instrument make provision about the making, consideration and determination of advance applications. 20

- (5) “Advance application” means an application for, or for the variation of, a remote operating licence (within the meaning given by the Gambling Act 2005) that is made in anticipation of the coming into force of subsections (1) and (2).
- (6) An order under subsection (4) may –
- (a) confer a discretion on the Gambling Commission; 5
 - (b) include provision modifying, applying or replicating any provision made by or under the Gambling Act 2005;
 - (c) make different provision for different purposes;
 - (d) include incidental, consequential, transitory or transitional provision.
- (7) A statutory instrument containing an order under subsection (4) is subject to annulment in pursuance of a resolution of either House of Parliament. 10

Advertising

2 Repeal of existing offence of advertising foreign gambling

- (1) Section 331 of the Gambling Act 2005 (offence of advertising foreign gambling) is repealed. 15
- (2) In consequence of the provision made by subsection (1), in that Act –
- (a) omit the following provisions –
 - (i) section 332(3),
 - (ii) section 333(3), and
 - (iii) section 361(1)(b) (but not the “and” at the end), and 20
 - (b) in section 333(4), for “(1)(a), (2)(a) and (3)” substitute “(1)(a) and (2)(a)”.

3 Advertising of gambling by way of remote communication: Great Britain

- (1) Section 333 of the Gambling Act 2005 (territorial application: remote advertising) is amended as follows.
- (2) In subsection (2), omit paragraph (b) (but not the “and” at the end). 25
- (3) For subsection (9)(b) substitute –
- “(b) in the case of remote gambling, that –
 - (i) at least one piece of remote gambling equipment to be used in providing facilities for the gambling is or will be situated in Great Britain, or 30
 - (ii) no such equipment is or will be situated in Great Britain, but the facilities are or will be capable of being used there.”

4 Offence of advertising unlicensed remote gambling: Northern Ireland

- (1) A person who advertises unlicensed remote gambling commits an offence. 35
- (2) The prohibition in subsection (1) applies to anything in the way of advertising which is done –
- (a) wholly or partly in Northern Ireland, and
 - (b) otherwise than by way of remote communication.

- (3) The prohibition in subsection (1) applies to advertising by way of remote communication only if the advertising involves –
- (a) providing information by whatever means (and whether or not using remote communication), intended to come to the attention of one or more persons in Northern Ireland, 5
 - (b) sending a communication intended to come to the attention of one or more persons in Northern Ireland,
 - (c) making data available with a view to its being accessed by one or more persons in Northern Ireland, or
 - (d) making data available in circumstances such that it is likely to be accessed by one or more persons in Northern Ireland. 10
- (4) A person guilty of an offence under subsection (1) is liable on summary conviction to –
- (a) imprisonment for a term not exceeding 6 months,
 - (b) a fine not exceeding level 5 on the standard scale, or 15
 - (c) both.
- (5) In this section “unlicensed remote gambling” means remote gambling the facilities in respect of which are not provided in reliance on a licence issued under Part 5 of the Gambling Act 2005, but does not include a lottery.
- (6) Expressions used in this section and in the Gambling Act 2005 have the same meanings in this section as in that Act. 20

Final provisions

5 Extent, commencement and short title

- (1) Section 2(1) and this section extend to England and Wales, Scotland and Northern Ireland. 25
- (2) Section 4 extends to Northern Ireland only.
- (3) The other provisions of this Act extend to England and Wales and Scotland only.
- (4) Section 1(4) to (7) and this section come into force on the day on which this Act is passed. 30
- (5) The other provisions of this Act come into force on such day as the Secretary of State may by order made by statutory instrument appoint (and different days may be appointed for different purposes).
- (6) An order under subsection (5) may include consequential, transitory, transitional or saving provision. 35
- (7) This Act may be cited as the Gambling (Licensing and Advertising) Act 2013.

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To make provision about the licensing and advertising of gambling.

*Secretary Maria Miller,
supported by
The Prime Minister, The Deputy Prime Minister,
Mr Chancellor of the Exchequer,
Secretary Eric Pickles, Secretary Jeremy Hunt,
Secretary Theresa Villiers,
Danny Alexander and Hugh Robertson.*

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