

2007 No. 2082

BETTING, GAMING AND LOTTERIES

**The Gambling Act 2005 (Gaming Machines) (Definitions)
Regulations 2007**

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| <i>Made</i> - - - - | <i>18th July 2007</i> |
| <i>Laid before Parliament</i> | <i>20th July 2007</i> |
| <i>Coming into force</i> - - | <i>1st September 2007</i> |

The Secretary of State makes the following regulations in exercise of the powers conferred by sections 235(3)(f), 235(4) and 355(1) of the Gambling Act 2005(a).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Gambling Act 2005 (Gaming Machines) (Definitions) Regulations 2007 and shall come into force on 1st September 2007.

(2) In these Regulations—

“the Act” means the Gambling Act 2005;

“commercial arrangement”, in connection with the use of a computer—

- (a) includes any arrangement under which an owner of the computer, or a person connected with such an owner—
 - (i) makes or receives (or intends to make or reasonably expects to receive) any payment or reward (whether by way of commission, rent or otherwise), in connection with making the computer available for use, or
 - (ii) otherwise receives (or reasonably expects to receive) any benefit in connection with making the computer available for use by virtue of it being adapted or presented in such a way as to facilitate or draw attention to the possibility of its use for gambling;
- (b) does not include an arrangement between an employer and his employee in connection with that employment, other than where a computer is made available to the employee by his employer for use wholly or mainly for recreational purposes;

“company” has the meaning given in section 735(1)(a) of the Companies Act 1985(b);

“owner”, in relation to a computer, means any person who owns the computer or has any right to control (directly or indirectly) by whom it is used;

“private use” in relation to a computer means use of the computer by—

- (a) an owner of the computer, or

(a) 2005 c. 19
(b) 1985 c. 6

- (b) persons using it with the permission of an owner of the computer, other than under any commercial arrangement in connection with its use;

“subsidiary” has the meaning given in section 736 of the Companies Act 1985.

(3) In these Regulations, a person is connected with an owner of a computer where—

- (a) the person and the owner are both companies and—
 - (i) one is a subsidiary of the other, or
 - (ii) both are subsidiaries of the same company;
- (b) the person and the owner are carrying on a business in common with a view to profit; or
- (c) the person is the owner’s spouse, civil partner, sibling, ancestor, or lineal or collateral descendant.

Dual-use computers

2.—(1) A computer is a dual-use computer within the meaning of section 235(2)(a) of the Act if—

- (a) it is capable of being used for a purpose that is not related to gambling, and
- (b) either—
 - (i) it is not knowingly adapted or presented by or on behalf of an owner of the computer or a person connected with such an owner, in such a way as to facilitate, or to draw attention to the possibility of, its use for gambling, or
 - (ii) it is so adapted or presented, but only in the circumstances specified in paragraph (2) or (3).

(2) The circumstances specified in this paragraph are that the computer is being made available for use (other than in circumstances where it is being adapted, maintained or repaired), but its use is restricted or intended to be restricted to private use.

(3) The circumstances specified in this paragraph are that the computer is being adapted, maintained or repaired (whether or not it is also being made available for use), but its use is restricted or intended to be restricted to persons using it in connection with its adaptation, maintenance or repair in circumstances where—

- (a) but for its adaptation, maintenance or repair, its use would otherwise be restricted or intended to be restricted to private use, and
- (b) enabling or facilitating the use of the computer for gambling is not the main purpose of the adaptation, maintenance or repair.

Domestic computers

3. For the purposes of section 235(2) of the Act, a domestic computer is a computer that—

- (a) is capable of being used for a purpose that is not related to gambling,
- (b) is located in a private dwelling, and
- (c) if used, is used on a domestic occasion.

18th July 2007

Gerry Sutcliffe
Parliamentary Under Secretary of State
Department for Culture, Media and Sport

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations assign meanings to the terms “dual-use computer” and “domestic computer” for the purposes of section 235(2)(a) of the Gambling Act 2005 (‘the Act’).

Section 235(1) of the Act defines a gaming machine as a machine that is designed or adapted for use by individuals to gamble (whether or not it can also be used for other purposes). The manufacture, supply, installation, adaptation, maintenance or repair of a gaming machine, and making a gaming machine available for use, are all regulated activities under the Act, and the Act establishes offences relating to such activities if they are undertaken without the appropriate authorisation.

There are a number of exceptions to the definition of a gaming machine, to ensure that it does not capture specified types of machine. One of the exceptions (in section 235(2)(a) of the Act) is that a domestic or dual-use computer is not a gaming machine by reason only of the fact that it can be used to participate in remote gambling.

Regulation 2(1) defines a dual-use computer, subject to the exceptions set out in paragraphs (2) and (3).

Regulation 3 defines a domestic computer.

A full regulatory impact assessment of the effect that this instrument will have on the costs of business is available from the Gambling and National Lottery Licensing Division, Department for Culture, Media and Sport, 2-4 Cockspur Street, London SW1Y 5DH, telephone 020 7211 6368.

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