

Gaming and Gaming Machines in Clubs and Miners' Welfare Institutes under the Gambling Act 2005

What is a club?

The Gambling Act 2005 ("the Act") defines three categories of clubs: members' clubs, commercial clubs and miners' welfare institutes.

Members' clubs (section 266 of the Act) must have at least 25 members and be established and conducted wholly or mainly for purposes other than gaming (unless the gaming is of a prescribed kind - see below). They must be established and conducted for the benefit of their members, and with the intention of operating on an ongoing basis. Examples of such clubs are sports clubs, local political associations, working men's clubs and branches of the Royal British Legion.

Commercial clubs (section 267 of the Act) are subject to the same requirements as members' clubs, except that they may operate on a commercial basis rather than for the benefit of their members. These clubs are sometimes referred to as *proprietary clubs*. An example of a commercial club would be a snooker club. Like members' clubs, they may not be gaming clubs, unless the gaming is of a type prescribed in regulations.

Miners' welfare institutes (see section 268 of the Act) are associations established for social or recreational purposes, where the association is either managed by a group of miners' representatives or uses premises regulated under a charitable trust, where the trust has, at some time, received funds from one of a number of mining related organisations. They too enjoy the same gaming entitlements as members' clubs.

Must a club have an alcohol licence or permit in order to provide gaming?

No, as long as the above requirements are met any club may provide gaming under the Act, whether or not an alcohol licence or permit is held.

What gaming permissions are available to clubs under the Act?

There are three types of permission: exempt gaming, club gaming permits and club machine permits. Exempt gaming and club machine permits are available to all three categories of club. Club gaming permits are available only to members' clubs and miners' welfare institutes. Further details about each of these can be found below.

Can a club be formed solely to provide facilities for gaming?

Any club established wholly or mainly for gaming may operate under the exempt gaming provisions in section 269 of the Act. The Act also gives the Secretary of State powers to specify particular kinds of gaming, thereby allowing members'

clubs established for the purposes of providing such gaming to take advantage of further gaming rights by applying for a club gaming permit. The Secretary of State has decided that bridge and whist should be the only prescribed kinds of gaming and, so long as they don't provide facilities for other types of non-machine gaming, a bridge or whist club may apply for a club gaming permit (see further details below).

What is exempt gaming?

Section 269 of the Act allows clubs and institutes (including clubs established and conducted for the purposes of gaming, and which otherwise meet the requirements for a members' or commercial club - see above) to provide certain facilities for gaming without the need for a licence or a permit. In order to qualify for this exemption the gaming must meet a number of conditions:

- . it must be equal chance gaming (examples would be bingo, bridge and certain poker games);
- . stakes and prizes must comply with any limits set in regulations;
- . the club must not deduct any amounts from sums staked or won;
- . any charge for participation must not exceed amounts set by the Secretary of State;
- . the games played may only take place on one set of premises, so there may not be any linking of games between premises; and
- . in the case of members' clubs and miners' welfare institutes only, people may only participate in the gaming if they have been a member (or applied or were nominated for membership) at least 48 hours before playing, or are genuine guests of such a person.

What are the limits on stakes and prizes for exempt gaming?

Although there are, at present, no limits in the legislation on stakes and prizes for most types of gaming in clubs and institutes, it should be noted that the exempt gaming provisions are intended to facilitate low stakes, low scale gaming activity. Clubs and institutes should therefore take steps to ensure that any gaming permitted on club premises remains at a low-level.

There are, however, regulations setting limits on poker played in all clubs and institutes under the exempt gaming provisions. There is a stakes limit of £10 per player per game (n.b. the limit applies to a game of poker, not a single hand), as well as aggregate stakes limits of £250 per day and £1000 per week for each individual club or institute. So, for example, a club could run a poker game for 25 players paying £10 each, four times per week. The maximum prize in a game of poker is also £250. Further information is available in the separate DCMS fact sheet on poker, and from the Gambling Commission's website:

www.gamblingcommission.gov.uk.

What about bingo?

There are no limits on stakes and prizes for games of bingo played in clubs. However, clubs or institutes that wish to offer high turnover bingo (i.e. where

stakes or prizes exceed £2000 per week) will require a bingo operating licence from the Gambling Commission. See the Gambling Commission's website (details above) for further information.

Do clubs and institutes need a permit or licence?

No licence or permit is required for clubs that operate solely under the exempt gaming provisions. Members' clubs and institutes (but not commercial clubs) that wish to provide additional facilities for gaming may apply for a club gaming permit from their local licensing authority.

What are the advantages of a club gaming permit?

These permits allow clubs to provide facilities for two specific banker's games - chemin de fer and pontoon (not blackjack) - and to charge higher participation fees (up to £3 per person per day). In addition, gaming in a club or institute that holds a club gaming permit is not subject to the stake and prize limits that apply to exempt gaming.

Club gaming permits also allow clubs to provide a total of 3 gaming machines in the following categories:

- B3A: a maximum stake of £1 and prize of £500
- B4: a maximum stake of £1 and prize of £250
- C: a maximum stake of 50p and prize of £35
- D: a maximum stake of 10p and prize of £5 cash; or 30p stake and £8 prize in a non-money prize machine

The use of these machines is subject to certain statutory conditions, and the holder of the permit must comply with the Gambling Commission's code of practice on the location and operation of gaming machines. See the Commission's website (details above) for further information.

Which clubs can apply for a club gaming permit?

Members' clubs (including bridge or whist clubs) and miner's welfare institutes may apply to their local licensing authority for a club gaming permit.

Can clubs charge members for taking part in gaming?

Clubs and institutes operating under the exempt gaming provisions may make a charge of up to £1 per person per day for participating in gaming. Where a club gaming permit (or in the case of a commercial club, a club machine permit) is held a charge of up to £3 may be made.

What if a club only want to provide gaming machines?

Members' clubs (including bridge and whist clubs), miners' welfare institutes and commercial clubs that wish to provide machine gaming may apply for a club machine permit from their local licensing authority. This type of permit

authorises the same gaming machine allowance as that described immediately above, and use of the machines is subject to similar statutory conditions and the same code of practice. See the Commission's website (details above) for further information.

What happens if a club breaks the rules?

Clubs will be expected to monitor any gaming that takes place on their premises, and take all reasonable steps to ensure that it complies with the statutory conditions. Under section 312 of the Act, a constable or Gambling Commission enforcement officer may enter club premises in order to determine whether gaming carried on there is in accordance with the statutory conditions or the terms of any club gaming or club machine permit. Any breach of the statutory conditions would render those providing the premises or facilities liable to prosecution under section 33 or 37 of the Act. Any breach of a permit could lead to its cancellation by the licensing authority, and might also constitute an offence under section 33 or 37 of the Act.

Is practical advice available about how to operate gaming in clubs and institutes?

The Gambling Commission has issued a statutory code of practice on gaming in clubs and alcohol-licensed premises, which is available from its website (see above).

NB. This fact sheet is intended to provide a general explanation of the regulatory regime under the Gambling Act 2005 and its subordinate legislation, and does not deal with every detail of the legislative provisions, or with the individual circumstances of a particular case. This fact sheet does not constitute legal advice and is not a substitute for the relevant legislative provisions. If you are in any doubt about the legality of any gambling activities that you intend to promote or for which you intend to provide facilities, you are strongly advised to seek independent legal advice.

DCMS
August 2007