

2007 No.

BETTING, GAMING AND LOTTERIES

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

Made - - - -

Laid before Parliament

Coming into force - -

1st September 2007

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 relation to the use of a computer—

(a) includes any arrangement under which the owner of the computer or any other person who is party to the arrangement—

(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 mainly for recreational purposes;

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

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

(c) the owner, or

(d) persons using it subject to the owner’s permission, other than where the computer is made available for the person’s use in pursuance of any commercial arrangement.

Dual-use computers

2. 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) (subject to regulation 3) it is not knowingly adapted or presented in such a way as to facilitate, or to draw attention to the possibility of, its use for gambling.

3.—(1) This regulation specifies the circumstances in which a computer which is knowingly adapted or presented in such a way as to facilitate, or to draw attention to the possibility of its use for gambling is to be treated as a dual-use computer despite regulation 2(b).

(2) In relation to making a computer available for use, or to its adaptation, maintenance or repair, it is to be treated as a dual use computer despite regulation 2(b) if—

- (a) when it is being made available for use (other than in circumstances where it is being repaired, adapted or maintained) its use is restricted or intended to be restricted to private use; or
- (b) when it is being repaired, adapted or maintained (whether or not it is also being made available for use), its use is restricted or intended to be restricted to persons using it in connection with its adaptation, repair or maintenance in circumstances where—
 - (i) but for its adaptation, repair or maintenance, its use would otherwise be restricted or intended to be restricted to private use; and
 - (ii) enabling or facilitating the use of the computer for gambling is not the main purpose of the adaptation, repair or maintenance.

Domestic computers

4. For the purposes of section 235(2)(a) 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) is used only on domestic occasions.

Date

Name
Minister of State
Department of Culture, Media and Sport

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations assign meanings to the terms “domestic computer” and “dual-use 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 people to gamble (whether or not it can be used for other purposes). The manufacture, supply, maintenance, repair, installation and adaptation 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 illegal use or manufacture of a gaming machine.

There are a number of exceptions to the definition of gaming machine, to ensure that it does not capture specified types of machine. One of the exceptions 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 defines a dual-use computer, but that definition is subject to regulation 3

Regulations 3 provides exceptions to regulation 2(b) for computers that are being made available for use, adapted, repaired and maintained. A computer that is made available for use may be adapted or presented to encourage gambling as long as its use is restricted to private use (defined in regulation 1). A computer that is being adapted, repaired or maintained may be adapted or presented to encourage gambling as long as it would otherwise be used for private use and it is not being adapted, repaired or maintained for a gambling purpose.

Regulation 4 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.