

NEXSTART

This information has been developed by a cross-sector group looking to reduce risk for gambling premises operating during the current pandemic and so ensure the safety of the public, premises staff and officers and provide clarity for all involved.

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Gaming machines in licensed bingo premises and adult gaming centres

Licensed bingo premises (LBP's) and adult gaming centres (AGC's) are entitled to provide the following gaming machines:

- an unlimited number of category C (maximum stake £1/maximum prize £100) and category D (maximum stake £1/maximum prize value £50), and
- category B3 (maximum stake £2/maximum prize £500) subject to a maximum limit of 20% of the total gaming machines available for use on the premises.

The Gambling Act 2005 does not define what 'available for use' means, but the Gambling Commission has issued guidance in which it considers that a gaming machine is available for use if a person can play it.

More than the permitted number of machines may be physically located on a premises, provided the operator has a system in place that ensures no more than the permitted number are available for use at any one time.

The Gambling Commission has issued further guidance to the effect that licensees are only entitled to count the number of machines that can be played simultaneously by different players without physical hindrance.

The Commission's guidance is current but was issued prior to the coronavirus pandemic. Following the coronavirus outbreak, the Government has set out some key areas where licensing authorities may wish to consider a pragmatic and more flexible approach during this outbreak, while ensuring the licensing objectives are safe-guarded. Although not specifically directed at gambling activities, it is suggested

that the approach advocated by the Government is equally applicable to the gambling regime.

The letter from Kit Malthouse MP states that a considered and pragmatic approach should be taken to breaches of licence conditions and procedural defects caused by the COVID-19 pandemic, particularly where these breaches or defects do not have a significant adverse impact on the licensing objectives.

In order to facilitate the required 'social distancing' between machine players it has been suggested that it will be necessary to switch off or otherwise incapacitate some machines, in which case those machines will no longer be available for use.

A reduction in the total number of machines that are available for use will reduce the number of category B3 machines allowed on the premises.

Such a reduction will have an adverse effect on the commercial viability of the premises, which is an example of the "enormous disruption" that the Government is seeking to avoid.

We believe there is an alternative solution to this issue which is consistent with a flexible and pragmatic approach while at the same time posing no threat to the licensing objectives.

Our suggestion is that the current gaming machine provision in LBC's and AGC's remains the same (providing that it is compliant with the 20% limit) and those machines remain switched on and "available for use", provided that the operator implements a COVID-19 risk assessed management system (e.g. signage throughout the venue, notices on machines, booking system, staff supervision) to ensure that customers playing the machines do so in a way that is safe and complies with the social distancing guidelines.

Please note that this document does not constitute legal advice but is the Group's considered opinion of the matters contained within.

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