

Statutory powers of inspection under the Gambling Act 2005

Information note 2017

1 Introduction

- 1.1** This quick guide describes local authority authorised person powers only (authorised persons) in relation to the Gambling Act 2005 (the Act). It does not offer guidance as to other legislation and powers.
- 1.2** Gambling Act licensing objectives:
- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder, or being used to support crime
 - Ensuring that gambling is conducted in a fair and open way
 - Protecting children and other vulnerable persons from being harmed or exploited by gambling
- 1.3** The Act gives powers to ensure compliance with the licensing objectives to:
- Enforcement officers (generally designated Gambling Commission staff)
 - Authorised persons under s.304 (generally local authority licensing staff but may include others) and
 - Police officers ([see details of their statutory powers](#))
- 1.4** Powers exist broadly to deal with legal compliance and to investigate suspected offences under the Act. Providing an authorised person is on a premises lawfully, broad powers exist.

2 Lawfully entering premises

- 2.1** Authorised persons can lawfully enter non-dwelling premises in the following circumstances:

Compliance with the Act: Under s.305 an authorised person may undertake activities for the purpose of assessing compliance with the Act or whether an offence under the Act is being committed.

Inspect gambling: Under s.307 authorised persons may enter a premises if they reasonably suspect that facilities for gambling are being provided, are about to be provided, or have been provided on the premises. Similarly an authorised person may enter to determine whether an operating or premises licence is held in respect of the provision of facilities for gambling, and to determine whether facilities are being, will be or have been provided in accordance with the terms and conditions of an operating licence or premises licence. This section does not apply if the suspected gambling is private or non-commercial gaming or betting. S.323 states that reasonable force may be used by an authorised person to enter premises in reliance on s.307.

Family Entertainment Centres: Under s.309 an authorised person may enter a family entertainment centre for the purpose connected with the consideration of the application or, where a family entertainment centre gaming machine permit is in effect, to determine whether the gaming machines being used on the premises, and the arrangements for their use comply with the requirements of the Act and any regulations under it.

Alcohol Licensed Premises: In England and Wales under s.310 an authorised person may enter premises for a purpose connected with considering the application and may also enter premises, where an on-premises alcohol licence is in effect, for the purpose of determining if any gaming and bingo being played meets the requirements of the Act, and to ascertain the number and category of gaming machines being made available for use on the premises.

This does not apply in Scotland but there is a power of lawful entry under s.22 Licensed Premises Gaming Machines Permit (Scotland) Regs 2007 (LPGMP(S)R07) for an authorised person for an application under the LPGMP(S)R07. Specialist legal advice should be taken in Scotland about who is to be considered an 'authorised person'.

In Scotland, lawful power of entry under the Act s.307 is available to authorised persons where they suspect that facilities for gambling other than private and non-commercial gaming or betting may be being provided, may be about to be provided or have been provided, on the premises.

Prize gaming permit: Under s.311 an authorised person may enter premises for a purpose connected with the consideration of the application or to determine whether prize gaming on the premises is compliant, where the prize gaming permit is in effect.

Clubs: Under s.312(4) an authorised person may enter members'/commercial clubs or miners welfare institutes where an application has been made for a club gaming permit or a club machine permit for a purpose connected with the consideration of the application. (Note only police officers /Gambling Commission staff can enter such premises to determine if the activities being carried out are being done in accordance with that permit).

Gambling licensed premises: s.313 states that an authorised person may enter premises, in respect of which an application for a premises licence has been made, to assess - having regard to the licensing objectives - the likely effects of the proposed licensed activity. Licensed premises may also be entered for purposes connected with a review of the licence.

Registered society lotteries: Under s.314 where a society is registered with a local authority in accordance with Part 5 of Schedule 11, an authorised person may enter premises owned or used by the society for the purpose of making inquiries in connection with a lottery promoted on behalf of the society.

Temporary Use Notice: An authorised person under s.315 may enter premises in respect of which a temporary use notice has been given, having regard to the licensing objectives, the likely effects of the authorised activities, or, when the notice is in effect, to determine whether activities are being carried on in accordance with the notice.

3 Powers

3.1 When lawfully on a premises, s.317 permits an authorised person to:

- inspect any part of the premises
- question any person on the premises
- require access to any written or electronic record which relate to the reason for entry
- require copies of written or electronic records which relate to the reason for entry
- remove and retain anything if they reasonably believe that it constitutes or contains evidence of the commission of an offence under the Act or the breach of a term or

condition of a licence issued under the Act (see s. 319 for more detail about records)

- anything suspected of constituting an offence under the Act

It is important to remember that these powers require no 'reasonable suspicion' to exercise them – they are available regardless.

[The Gambling Act 2005 \(Inspection\) \(Provision of Information\) Regulations 2007](#) provide more information about powers of entry and written records of inspection.

4 To note

- 4.1 Under s.318 an authorised person can only enter a dwelling with a warrant issued by a justice of the peace.¹
- 4.2 Under s.320 all powers of entry must be exercised at a reasonable time.
- 4.3 Under s.321 an authorised person must produce evidence of their identity.
- 4.4 Under s.323 an authorised officer may use reasonable force for the purpose of entering premises in pursuance of a power under s 307.
- 4.5 Under s.324 an authorised person entering a premises may take one or more persons with them.
- 4.6 Under s.325 an authorised person who enters premises shall take reasonable steps to ensure that when they leave the premises they are as secure as they were before they entered.
- 4.7 s.326 creates an offence of obstruction, where a person obstructs or fails to co-operate with an authorised officer exercising these powers (punishable by a fine not exceeding level 3 on the standard scale (currently £1,000).
- 4.8 s.64 permits the use of children in enforcement (test purchasing) operations at the request of an authorised person.
- 4.9 Further information and advice can be found on our website:
 - [Templates for assessments at gambling premises](#)
 - [Toolkits for gambling regulatory issues](#)
 - [Summary of offences under Gambling Act 2005](#)
 - [Statutory Guidance to Licensing Authorities](#)

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¹ In Scotland any reference to a justice of the peace is to be construed as a reference to the sheriff or a justice of the peace.