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5 - Poker as private gaming

29.46. Poker offered as private gaming can take place anywhere to which the public do not have access, and this would include a workplace. Domestic and residential gaming are two subsets where non-equal chance gaming is allowed:

Domestic gaming is permitted without the need for permissions if:

it takes place in a private dwelling

it is on a domestic occasion

no charge or levy is made for playing.

Residential gaming is permitted when:

it takes place in a hall of residence or hostel not administered in the course of a trade or business more than 50 percent of the participants are residents.

29.47. Private gaming can potentially take place on commercial premises in circumstances where a members' club hires a room in, for example, a pub or hotel for a private function where equal chance gaming only is played. However, organisers would need to scrutinise very carefully the arrangements put in place to make sure that the particular area of the pub, hotel or other venue in which the gaming takes place is not, on the occasion of the private function, a place to which the public have access and that those participating are not selected by a process which means that, in fact, they are members of the public rather than members of the club. The law in this area is complex and organisers should be advised to seek their own legal advice before proceeding with the event.

29.48. It is a condition of private gaming that no charge (by whatever name called) is made for participation and Schedule 15 to the Act makes it clear that a deduction from or levy on sums staked or won by participants in gaming is a charge for participation in the gaming. It is irrelevant whether the charge is expressed to be voluntary or compulsory, particularly if customers are prevented from playing if they do not make the 'voluntary' donation, or there is strong peer pressure to make the donation. A relevant decided case in another licensing field is that of *Cocks v Mayner* (1893) 58 JP 104, in which it was found that an omnibus said to be available free of charge but whose passengers who were invited to (and in some cases did) make a voluntary contribution was 'plying for hire' without the appropriate licence.

29.49. Additionally, the decided cases of *Panama (Piccadilly) Ltd v Newberry* (1962) 1WLR 610 and *Lunn v Colston-Hayter* (1991) 155 JP 384 are helpful in guiding local authorities in deciding whether a person ceases to be a member of the public merely because they have agreed to become a member of a club.

29.50. In the first of these cases (which related to a strip show), the court said that an applicant for membership of the club and admission to the show was and remained a member of the public, as the whole purpose (of membership) was to get members of the public to see the show and there was no sufficient segregation or selection to cause an applicant to cease to be a member of the public and to acquire a different status as a member of a club on signing his application form and paying the charge. In the second (which related to an acid house party), the judge said that it was impossible, merely because of the existence of a formal scheme of club membership enforced to the extent of requiring tickets to be obtained 24-hours in advance of the event, to regard those who obtained such membership and tickets as having ceased to be members of the public.

29.51. This means that people joining a club to attend and take part in a 'private' event are likely to remain members of the public, particularly if 'club membership' is acquired only a short time before, and in order to attend the event.

Previous section

Poker as non-commercial gaming

Next section

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Tabela de Dados

Categoria Dados Fornecidos

Considerações Adicionais

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