

REPORT TO: LICENSING COMMITTEE - 15 SEPTEMBER 2006

REPORT BY: LICENSING MANAGER

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Gambling Act 2005 – Briefing report for members

1. PURPOSE OF REPORT

The purpose of this report is to inform members about the introduction of new legislation to regulate gambling in Great Britain and the role of the Council as licensing authority.

2. BACKGROUND

The Gambling Act 2005 (“the Act”) gives effect to the Government’s proposals for reform of the law in relation to gambling. The Act received royal assent on 7 April 2005 and provides for a new regulatory system to control the provision of all gambling in Great Britain, other than the National Lottery and spread betting.

3. SUMMARY OF THE ACT

The Act repeals various Acts of Parliament which currently regulate gaming.

These are:

- Betting, Gaming and Lotteries Act 1963
- Gaming Act 1968
- Lotteries and Amusements Act 1976

The Act establishes two comprehensive offences: providing facilities for gambling or using premises for gambling, in either case without the appropriate permission. Such permissions may be granted by way of a licence, permit or registration or are otherwise given an exemption by the Act. Where permission to provide facilities for gambling is granted, it will be subject to varying degrees of regulation which is dependant upon the type of gambling, the means by which it is carried out and the people by whom and to whom it is offered.

Guidance notes issued by the Department of Culture, Media & Sport concerning the changes the new Act will bring into effect are attached as Appendix A.

4. The GAMBLING COMMISSION

The Act also introduces a new regulator for gambling, the Gambling Commission (“the Commission”) and introduces a new licensing regime for commercial gambling. The new regime will be conducted by the Commission or by local licensing authorities depending on the matter to be licensed.

The Act removes from licensing justices all responsibility for granting gaming and

betting permissions. Instead, the Commission and licensing authorities will share between them responsibility for all those matters previously regulated by licensing justices.

Gambling in the form of spread betting and the National Lottery will not be covered under the new Act as they will continue to be regulated under existing provisions. The Commission will take over from the Gaming Board for Great Britain. In addition to taking over responsibility for the Board's current remit of regulating gaming and certain lotteries, the Commission will take on responsibility for regulating betting. The Commission will be responsible for granting operating and personal licences for commercial gambling operators and personnel working in the industry. It will also regulate certain lottery managers and promoters. The Act sets out different types of operating licence that cover the full spectrum of commercial gambling activities conducted in Great Britain. The Act also makes provision for the Commission to have powers of entry and inspection to regulate gambling, with safeguards for those who will be subject to the powers.

The Act also establishes a Gambling Appeals Tribunal to hear appeals from decisions made by the Commission.

5. LICENSING AUTHORITIES

Licensing authorities will have new powers to licence gambling premises within their area which include the following:

- Responsible for the licensing of premises where gambling activities are to take place by issuing **Premises Licences**;
- Issuing of **Provisional Statements** (in respect of premises yet to be built, altered or acquired);
- Regulating members' clubs and miners' welfare institutes who wish to undertake certain gaming activities by issuing **Club Gaming Permits and/or Club Machine Permits**;
- Issuing **Club Machine Permits** to Commercial Clubs;
- Granting permits for the use of certain lower stake gaming machines at **unlicensed Family Entertainment Centres** (existing function);
- Receiving **notifications** from alcohol licensed premises (under the Licensing Act 2003) of the use of two or fewer gaming machines;
- Issuing **Licensed Premises Gaming Machine Permits** for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where more than two machines are required;
- Registering **small society lotteries** below prescribed thresholds (existing function);
- Issuing **Prize Gaming Permits** (existing function);
- Receiving and Endorsing **Temporary Use Notices**;
- Receiving **Occasional Use Notices**;
- Providing information to the Gambling Commission regarding details of licences issued;

Attached as Appendix B is a short summary of each of the above functions assigned

to licensing authorities.

Maintaining registers of the permits and licences that are issued under these functions.

6. THE LICENSING OBJECTIVES

The Act contains three licensing objectives which underpin the functions that the Commission and licensing authorities will perform. These objectives are central to the new regulatory regime created by the Act. They are:

- Protecting children and other vulnerable people from being harmed or exploited by gambling;
- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder, or being used to support crime; and
- Ensuring that gambling is conducted in a fair and open way.

The Act sets out licensing functions to be exercised by the Commission in relation to operating and personal licences, and by licensing authorities in relation to the licensing of premises and the grant of certain permits. In exercising these functions, the Commission and licensing authorities must be guided by the licensing objectives

7. REGULATION OF GAMBLING

In accordance with Section 153 of the Act, in making its decisions about premises licences and temporary use notices, licensing authorities should aim to permit the use of the premises for gambling in so far as it thinks it:

- in accordance with any relevant code of practice issued by the Gambling Commission
- in accordance with any guidance issued by the Gambling Commission
- reasonably consistent with the licensing objectives and
- in accordance with the Authority's statement of licensing policy

Regulation of gambling in Great Britain will be achieved through a variety of measures established under the Act. These include:

- Secondary legislation;
- Conditions on licences;
- Codes of Practice; and
- Guidance

The Act addresses the significant technological advances that have taken place within this field in the last 40 years. The Act requires regulation of gambling where the player is not present on the operator's premises. For example, operators based in Great Britain must obtain an operating licence to authorise the provision of gambling via remote communication e.g. via interactive television or the internet.

This particular type of gambling will be regulated by the Gambling Commission. Moreover, the new licensing system has been designed to keep pace with technological developments, so that, subject to appropriate Parliamentary approval, gambling delivered by new, unforeseen methods can be regulated in the future.

The Act revises the law of gambling. For example, commercial bingo premises and casinos will no longer have to operate as clubs with a 24 hour membership rule (making them places to which the public will now have access). A brief overview of those changes are outlined below:

Casinos

The Act makes significant changes to the regime for casinos. It removes certain regulatory controls which existed under the Gaming Act 1968. Three categories of new casinos are introduced consisting of regional, large and small. These are defined according to a casino's size. A casino's category affects what forms of gambling can be provided at the casino. For example, a casino's gaming machine entitlement depends upon which category it falls into. There will be a minimum size limit for new casinos established under the Act.

The Act imposes an initial limit of 1 regional casino, 8 small and 8 large casinos to be licensed under the Act. There are powers to amend these limits or remove them entirely, subject to appropriate Parliamentary approval. Casinos which are currently licensed before the new provisions of the Act come into force will be allowed to continue to operate. This will be provided for by means of transitional provisions.

A power is provided for licensing authorities to pass resolutions not to licence any new casino premises in their area.

Gaming machines

The Act introduces a new regime for gaming machines. A new definition of gaming machine is provided, together with power to prescribe categories. The Act provides certain entitlements for commercial operators to use specified numbers and categories of machines under their licence. It also establishes permit procedures for authorising use of the lower stake gaming machines in specific locations.

A summary of those categories and types of premises where they may be used is attached as Appendix C.

Lotteries

A revised regime for the regulation of lotteries is contained within the Act which builds upon the existing provisions contained within the Lotteries and Amusements Act 1976 which will subsequently be repealed when the Act comes into effect.

The Act regulates lotteries in two ways: either as exempt lotteries, or as licensable lotteries.

8. RESPONSIBLE AUTHORITIES/INTERESTED PARTIES

The Act sets out two categories of organisations and individuals (“responsible authorities” and “interested parties”) which may make representations in respect of an application having regard to the licensing objectives.

Responsible authorities

Responsible authorities are public bodies that must be notified of applications and that are entitled to make representations to the licensing authority in relation to applications for, and in relation to, premises licences.

Section 157 of the Act identifies the bodies that are to be treated as responsible authorities. They are:

- a) A licensing authority in England and Wales in whose area the premises is wholly/partly situated;
- b) The Gambling Commission;
- c) The Chief Officer of Police for the area in which the premises is wholly or partially situated;
- d) The fire and rescue authority for the same area;
- e) The local planning authority;
- f) An authority which has functions in relation to pollution to the environment or harm to human health;
- g) Anybody, designated in writing by the licensing authority as competent to advise about the protection of children from harm;
- h) HM Revenue & Customs; and
- i) Any other person prescribed in regulations by the Secretary of State.

Also, in relation to a vessel, but no other premises, responsible authorities will also include navigation authorities within the meaning of section 221(1) of the Water Resources Act 1991 that would include:

- j) The Environment Agency;
- k) The British Waterways Board; and
- l) The Maritime and Coastguard Agency.

The Act contains a similar list of responsible authorities to that contained within the Licensing Act 2003, despite the lack of the corresponding licensing objective of public safety. The result the Act aims to achieve through the inclusion of a wide

range of responsible authorities is one where all relevant regulatory bodies and organisations are made aware of the applications for gambling premises licences or other permissions. In many instances comments that responsible authorities make will be relevant to the licensing authority's determination.

Equally, in some cases, representations may not relate to matters that lead to the licensing authority refusing a premises licence. However, a policy of wide dissemination of applications allows responsible authorities to take action under their own legislation and enforcement powers, even if there is no direct role for them in the gambling licence process. The Act contains no obligation on responsible authorities to respond to applications for premises licences if they do not wish to do so.

Interested parties

To accept a representation from an interested party, the licensing authority must take the view that the person:

- a) Lives sufficiently close to the premises to be likely to be affected by the authorised activities; or
- b) Has business interests that might be affected by the authorised activities; or
- c) Represents persons in either of these two groups.

9. LOCAL STATEMENT OF LICENSING PRINCIPLES

In preparation for receiving applications for premises licences under the new Act, from the beginning of 2007, licensing authorities are required to publish every three years, a statement of the principles which they propose to apply when exercising their functions. This will set out how the authority will meet the licensing objectives of the Act. Authorities must consult on their draft statements and communities and businesses will have a chance to comment on the authority's proposed approach.

The Hampshire & Isle of Wight Licensing Officers Group set up a sub-group to produce a generic policy for use by licensing authorities in the area. This template has also been produced having regard to advice provided by LACORS (Local Authorities Coordinators of Regulatory Services).

A separate report has been prepared for members to consider in relation to commencing the consultation process in respect of the draft statement of licensing principles

10. COMPLIANCE AND ENFORCEMENT

The Act provides the Gambling Commission, local authorities, licensing authorities and the police with the powers necessary to monitor compliance with the provisions of the Act and with licence conditions, and to investigate suspected offences.

In general, the Gambling Commission will take the lead on the investigation and

prosecution of illegal gambling, but there may be occasions on which licensing authorities are better placed to take the lead, particularly where there is illegal activity on a smaller scale that is confined to one authority area.

11. IMPLEMENTATION TIMESCALES

April 2005	Act received Royal Assent.
Autumn 2005	Gambling Commission established.
December 2005	Formal consultation on Guidance for local authorities by the Gambling Commission.
May 2006	Statutory Guidance for licensing authorities published by the Gambling Commission.
September 2006 – November 2006	Draft statement of licensing principles published for public consultation.
December 2006	Final statement of licensing principles published.
January 2007	The Gambling Commission commence accepting licence applications.
February 2007	Licensing authorities commence accepting licence applications.
1 September 2007	Full implementation of the Act.



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