



department for
**culture, media
and sport**

Gambling Act 2005

Consultation on Gaming in Clubs and on Alcohol-licensed
Premises

January 2007

Our aim is to improve the quality of life for all through cultural and sporting activities, support the pursuit of excellence, and champion the tourism, creative and leisure industries.

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Section 1: Introduction

General

- 1.1 Part 12 of the Gambling Act 2005 contains a variety of provisions about gaming in clubs and other premises, like pubs, that are licensed for the sale of alcohol. Gaming, of one kind or another, has been a long-standing and popular activity in most clubs and pubs, and the provisions in Part 12 have, for the most part, been designed to maintain the current position. This consultation paper provides details of the new statutory regime for gaming in clubs and pubs, draws attention to any changes from the current position under the Gaming Act 1968, and sets out a series of proposals for the detailed regulations that are needed to give effect to the Act's provisions.

Gaming in clubs

- 1.2 The Gambling Act 2005 (the Act) defines three categories of eligible clubs: members' clubs, commercial clubs and miners' welfare institutes. To take advantage of the various rights set out in Part 12 of the Act a club has to fall within one of these categories (although not all gaming rights are equally available to all three categories of club).
- 1.3 In summary, eligible clubs may provide facilities for the following:
- bingo, subject to conditions set out in the Act;
 - other equal chance gaming, subject to conditions set out in the Act and in regulations prescribed by the Secretary of State.
- Eligible clubs may also apply for a club machine permit, which confers additional rights in relation to gaming machines, while members' clubs and institutes only may apply for a club gaming permit.
- 1.4 The Act gives the Secretary of State the power to make regulations in these areas prescribing:
- particular kinds of gaming, thereby allowing members' clubs established for the purposes of providing such gaming to take advantage of additional rights under Part 12, notwithstanding the restriction in section 266(1)(a) of the Act (which prevents clubs established wholly or mainly for the provision of facilities for gaming from qualifying as a members' or commercial club);
 - limits on stakes and prizes and a maximum participation fee for exempt, equal chance gaming conducted in eligible clubs;
 - limits on the maximum participation fee for gaming played under the authority of a club gaming permit;

- further games of chance that may be played under the authority of a club gaming permit, limits on stakes and prizes, a maximum participation fee and limits on any deductions or levies on sums staked or won by participants, for such gaming.

Gaming in alcohol-licensed premises

- 1.5 The Act permits pubs and certain other premises holding an alcohol licence issued under Part 3 of the Licensing Act 2003 or under section 9(1) of the Licensing (Scotland) Act 1976 to provide facilities for the following types of gaming:
- bingo, subject to conditions set out in the Act;
 - other equal chance gaming, subject to conditions set out in the Act and in regulations prescribed by the Secretary of State; and
 - machine gaming, once again subject to conditions contained in the Act and associated codes of practice to be issued by the Gambling Commission.
- 1.6 The regulations for equal chance gaming will set out the requirements for limiting stakes and prizes.

Regulations

- 1.7 This consultation document therefore sets out and invites comments on the Department for Culture Media and Sport (the Department)'s proposals for the following regulations under the Gambling Act:
- Gambling (Gaming in Clubs) Regulations
 - Gambling (Limits on Exempt Gaming in Clubs) Regulations
 - Gambling (Club Gaming Permits) (Authorised Gaming) Regulations
 - Gambling (Limits on Exempt Gaming on Alcohol Licensed Premises) Regulations

The Gambling (Gaming in Clubs) Regulations are scheduled to come into operation on 1 June 2007, to enable licensing authorities to receive permit applications from that date, and the remaining three on 1 September 2007 when the majority of the Act's provisions are due to be implemented. Each of these regulations will be subject to the "negative resolution" procedure in Parliament. A draft partial Regulatory Impact Assessment is attached at Appendix 1. Draft regulations will be published shortly.

- 1.8 This document reflects feedback from informal consultation with a number of interested parties, including the Gambling Commission, licensing authorities and representatives from the clubs, institutes and licensed trade sectors. We have also sought the views of the police and problem gambling organisations, and will be engaging in further discussions with these and a wide range of faith and community groups during the formal consultation exercise.
- 1.9 The Secretary of State also has the power to make regulations governing the procedures in relation to obtaining club gaming and club machine permits, and in relation to the procedures to be followed by licensing authorities in considering whether to cancel a permit; these matters will be the subject of separate consultation and regulations. Consultation is already underway on the fees payable for various types of permits, including those relating to clubs. For pubs and other alcohol-licensed premises there are to be separate regulations covering the procedures for activating gaming machine entitlements and the arrangements for obtaining and maintaining licensed premises gaming machine permits. We will also be

considering the need for regulations in relation to the procedures to be followed by local authorities in considering whether to make an order removing the gaming exemption in respect of individual licensed premises. In Scotland, Scottish Ministers have powers to make regulations on fees and provisions for club and pub permits.

- 1.10 There are a number of other consultation papers that have a bearing on the clubs and pubs sectors. These include the Gambling Act (Inspection) Regulations, the Gambling Act (Categories of Gaming Machine) Regulations and the Gambling Act (Gaming Machine) Regulations, all of which are available on the Department's website (<http://www.dcms.gov.uk/>). We will also be consulting separately on regulations for non-commercial gaming and lotteries under Part 14 of the Act.
- 1.11 Further guidance and information can also be found on the Gambling Commission's website (<http://www.gamblingcommission.gov.uk/>).

Section 2: Summary of proposals

2.1 As a general principle, Part 12 of the Gambling Act seeks to maintain the position under the Gaming Act 1968 whereby clubs, pubs and certain other premises licensed for the sale of alcohol may provide limited, generally low stakes gaming facilities for their members and customers. As already explained above, in order to give practical effect to these provisions the Secretary of State needs to make regulations covering a range of matters, including types of games, limits on stakes and prizes and maximum participation fees for gaming. Our specific proposals are listed below, but their intended effect can be summarised as follows.

Clubs and Miners' Welfare Institutes

2.2 In broad terms clubs and institutes will be able to provide gaming facilities for their members and bona fide guests in the same way as at present. The only significant change to the current arrangements is the proposal to introduce limits on stakes and prizes for poker played in those clubs and institutes that do not hold a club gaming permit issued by their local licensing authority (broadly equivalent to Part II registration under the current Gaming Act). The proposed introduction of these limits, under new powers included in the Gambling Act, reflects significant recent growth in the popularity of poker, and what we see as the need to address the particular risks associated with such gaming. Our proposals would see a stakes limit of £10 per person per game, as well as daily and weekly premises-based limits on the total amounts that may be staked or won at poker. Other proposals would see small increases in the maximum fees that clubs may charge their members for participating in gaming. Clubs and institutes holding a club gaming permit would also be able to provide facilities for specified banker's games, once again as they can now if they are registered under Part II of the Gaming Act. Finally, in order to help clubs and institutes to comply with the full range of statutory requirements for gaming we are proposing the introduction of a code of practice, to be developed in consultation with interested parties.

Alcohol-licensed premises

2.3 Under the Gaming Act cribbage and dominoes may be played in pubs and on certain other premises with an alcohol licence. Other types of equal chance gaming are also permitted, subject to the approval of the local licensing authority. The 2005 Act removes the requirement for licensees to seek such approval, but introduces strict conditions for any gaming, including limits on stakes and prizes, and provides licensing authorities with powers to take action against individual premises in a range of circumstances. Our detailed proposals would see the introduction of a fixed limit of £5 per game on the amount that may be staked by a player in any type of equal chance gaming in pubs and other premises with a bar. In addition, as in the case of clubs and institutes, there would be daily and weekly limits on the total amounts that may be staked or won at poker on individual premises. Given that a breach of either of these limits or any of the other statutory conditions would, potentially, constitute a criminal offence there would be a significant onus on individual licensees to ensure that any gaming on their premises complies with the law. Once again, therefore we are proposing the introduction of a statutory code of practice to assist licensees in meeting their obligations under the Act.

Summary of detailed proposals

Clubs

- to prescribe bridge and whist for the purposes of sections 266(2), 267(2) and Schedule 12 of the Act (page 16)
- to implement the Secretary of State's power to place limits on stakes and prizes for exempt equal chance gaming but only, at this stage, in respect of poker (page 19)
- that the appropriate limits for equal chance poker played in members' clubs, commercial clubs or institutes that do not hold a club gaming permit should be £1000 in any seven day period and £200 on any day (in total stakes or prizes); with a maximum stake of £10 per person, per game (page 19)
- that there should be a code of practice for gaming in clubs and institutes (page 20)
- that the maximum participation fee for exempt gaming in clubs or institutes that do not hold a club gaming permit should be: bridge/whist - £18; all other equal chance gaming - £1 (page 21)
- that the maximum participation fee for equal chance gaming where a club gaming permit is held should be: for bridge and/or whist, £20; all other equal chance gaming, £3 (page 22)
- that pontoon and chemin de fer should be prescribed under section 271 of the Act as the additional games of chance that may be provided by the holder of a club gaming permit (page 22)
- to implement the provision that enables members' clubs and institutes to charge participation fees for pontoon and chemin de fer, with the maximum charge set at £3 per day (page 22)
- not, at this stage, to implement section 271(4)(b) of the Act, which would allow deductions or levies to be imposed by holders of club gaming permits on sums staked or won by participants in pontoon or chemin de fer (page 23)

Alcohol-licensed premises

- that the appropriate limit for all exempt equal chance gaming on alcohol-licensed premises should be £5 per person, per game (page 26)
- and that in addition, for poker, there should be limits for each premises of £500 in any period of seven days, and £100 on any day (in total stakes or prizes) (page 27)
- that there should be a code of practice for gaming in alcohol-licensed premises (page 27)

Section 3: Consultation arrangements

3.1 The Department welcomes comments on these proposals and on the attached draft partial regulatory impact assessment. This consultation is likely to be of particular interest to:

- members' clubs
- miners' welfare institutes
- commercial clubs
- pubs and certain other alcohol-licensed premises
- representatives of all the above
- licensing authorities
- organisations with an interest in problem gambling

The closing date for responses is 20 April 2007. Please send your comments by email or in writing to:

Dave Bawden
Gambling and National Lottery Licensing Division
Department for Culture Media and Sport
2-4 Cockspur Street
London SW1 5DH
<mailto:dave.bawden@culture.gsi.gov.uk>

3.2 A summary of responses will be published within three months of the closing date for this consultation. All information in responses, including personal information, may be subject to publication or disclosure under Freedom of Information legislation. If a correspondent requests confidentiality, this cannot be guaranteed and will only be possible if considered appropriate under the legislation. Any such request should explain why confidentiality is considered necessary. Any automatic confidentiality disclaimer generated by your IT system will not be considered as such a request unless you specifically include a request, with an explanation, in the main text of your response.

3.3 If you have any questions or complaints about the process of consultation on this paper please contact Liz Sweet, Consultation Co-ordinator, Strategy Division, Department for Culture Media and Sport, 2-4 Cockspur Street, London SW1Y 5DH, liz.sweet@culture.gsi.gov.uk.

Section 4: Background

Clubs

Clubs eligible to provide gaming facilities

4.1 The Act defines three categories of eligible clubs: members' clubs, commercial clubs and miners' welfare institutes. To take advantage of the various rights set out in Part 12 of the Act a club has to fall within one of these categories. Not all gaming rights are equally available to all three categories of club. A table summarising gaming entitlements, including those arising from the detailed proposals set out in this document, can be found at page 24.

4.2 Members' clubs (see section 266 of the Act) must have at least 25 members and be established and conducted wholly or mainly for purposes other than gaming (unless the gaming is of a prescribed kind – see 4.5 below). They are to be established and conducted for the benefit of their members, and with the intention of operating on an ongoing basis. Examples of such clubs would include sports clubs, local political associations, working men's clubs or branches of the Royal British Legion.

4.3 Commercial clubs (see section 267 of the Act) are subject to the same conditions as members' clubs, except that, unlike the latter, they may operate as a commercial enterprise benefiting a class of people different to the members. These clubs are also known as proprietary clubs. An example of a commercial or proprietary club would be a snooker club. Like members' clubs, commercial clubs may also be gaming clubs, provided the gaming is of a type prescribed in regulations (see 4.5 below).

4.4 Miners' welfare institutes (see section 268 of the Act) are associations established for social or recreational purposes, where the association is either managed by a group of miners' representatives or uses premises regulated under a charitable trust, where the trust has, at some time, received funds from one of a number of mining related organisations. They too enjoy the same gaming entitlements as members' clubs.

Gaming clubs

4.5 Under section 266 and 267 of the Act clubs established wholly or mainly for the purposes of gaming are, as a general rule, not eligible for the full rights conferred by Part 12. However, the Act gives the Secretary of State powers to specify particular kinds of gaming, thereby allowing members' clubs and commercial clubs established for the purposes of providing such gaming to take advantage of further rights under Part 12. For members' clubs this includes the ability to apply for a club gaming permit (see 4.7 to 4.10 below).

Exempt gaming

4.6 Section 269 of the Act permits clubs and institutes (including clubs established and conducted for the purposes of gaming, and which otherwise meet the definition of a members' or commercial club) to provide certain facilities for gaming without the need for a licence or a permit. In order to qualify for this exemption the gaming must meet a number of conditions:

- it must be equal chance gaming, as defined in Part 1 of the Act (examples would be bingo or bridge);
- stakes and prizes must be in accordance with any rules or limits set in regulations (see 5.10 to 5.20 below);
- the club must not deduct any amounts from sums staked or won;

- any charge for participation must not exceed amounts prescribed in regulations (5.22 to 5.25 below);
- the games played may only take place on one set of premises, so there may not be any linking of games between premises; and
- in the case of members' clubs and miners' welfare institutes only, people may only participate in the gaming if they have been a member (or applied or were nominated for membership) at least 48 hours before playing, or are genuine guests of such a person.

Club gaming permit

4.7 Members' clubs and miners' welfare institutes (but not commercial clubs) may apply for a club gaming permit from their licensing authority. A club gaming permit is equivalent to current registration under Part II of the 1968 Gaming Act, and provides the same range of gaming entitlements. This permit allows clubs and institutes to offer certain gaming facilities, in addition to those available under the exempt gaming allowances. Schedule 12 of the Act sets out the procedures and rules for this permit.

4.8 The club gaming permit will authorise the provision of up to a total of 3 gaming machines in the following categories:

- B4: a proposed maximum stake of £1 and prize of £250
- C: a proposed maximum stake of 50p and prize of £35
- D: a proposed maximum stake of 10p and prize of £5 cash; or 30p stake and £8 prize in a non-money prize machine

4.9 The permit is subject to the condition that no person under 18 shall use a Category B4 or C machine, and the holder of the permit must comply with a code of practice to be issued by the Gambling Commission about the location and operation of gaming machines, including any associated social responsibility provisions.

4.10 The club gaming permit will also provide additional gaming entitlements. This gaming falls into two types:

- equal chance gaming - this is equivalent to gaming authorised under the exempt allowance (see 4.6 above), but without any limits on maximum stakes or prizes. It should be noted, however, that section 275 of the Act requires clubs or institutes providing "high turnover bingo" (i.e. where the total stakes or prizes for bingo games played in any seven day period exceed £2000) to obtain an operating licence from the Gambling Commission – see 4.11 below.
- additional games of chance as prescribed by regulations. This provision allows the Secretary of State to authorise particular games involving a bank, or unequal chance games to be played under the permit. An example would be pontoon. This gaming is subject to a number of conditions set out in section 271(4) of the Act, and others which the Secretary of State may prescribe (see 5.29 below).

Bingo

4.11 Section 275 of the Act contains particular provisions regulating bingo played in clubs or institutes, over and above those for equal chance gaming in general contained in sections 269 and 271. These additional provisions are intended to prevent facilities for bingo being offered on a large scale ("high turnover bingo"). Those clubs or institutes that wish to offer high turnover bingo will require a bingo operating licence from the Commission under Part 5 of the Act. The trigger for high turnover bingo is that the total stakes or prizes for bingo games played in any period of 7 days exceed £2000. If a club or institute offers high turnover bingo without the appropriate operating

licence it will commit an offence under section 33 of the Act. Section 275 operates in a way that offences are only committed after the first week of high turnover bingo. Once that has happened an offence takes place if high turnover bingo is played again in the following twelve months, unless a bingo operating licence has been obtained. In addition, a club or institute must inform the Commission whenever a high turnover period first begins (i.e. when it has had its first week of high turnover bingo), and failure to do so is an offence with a maximum penalty of a level 3 fine. The Gambling Commission will be considering, in consultation with the clubs and institutes sector, whether there is a need for a code of practice for bingo played under the exempt gaming provisions in clubs and institutes.

Club machine permit

4.12 Under section 273 of the Act, a club machine permit is available to a members' club, a miners' welfare institute or a commercial club. This type of permit authorises the same gaming machine allowance as that described in 4.7 above. It does not, however, authorise the provision of any other facilities for gaming. Three conditions are automatically attached to a club machine permit. These relate to prior membership for use of the machines (but not for a commercial club), restrictions on giving children and young people (i.e. anyone under 18 years of age) access to category B4 or C machines, and requiring compliance with Commission codes of practice about the location and operation of machines (including associated social responsibility provisions).

Transitional arrangements

4.13 For existing clubs and institutes the following arrangements will apply from 1 September 2007:

- a registration under Part II of the Gaming Act will be treated as if it was a club gaming permit under the 2005 Act;
- a registration under Part III of the Gaming Act will be treated as if it was a club machine permit under the 2005 Act;
- both will expire on the date on which a current registration is due to expire;
- but, any new rules, conditions, regulations or codes of conduct applicable to permits issued under the 2005 Act, including those relating to the payment of fees, will apply equally to those permits automatically converted from Part II and Part III registrations under the transitional arrangements.

Alcohol-licensed premises

4.14 Sections 279 to 284 of the Act cover the provision of gaming, including gaming machines, in premises licensed to supply alcohol for consumption on the premises under Part 3 of the Licensing Act 2003 or under section 9(1) of the Licensing (Scotland) Act 1976. The relevant premises are those containing a bar at which alcohol is served, which means that premises such as the majority of restaurants, which do not have a bar for serving drinks to customers, will fall outside the scope of these provisions. Nor do these provisions apply to vehicles. The gaming exemption and gaming machine allowance conferred by sections 279 to 284 respectively only apply at those times when alcohol is authorised to be sold at the premises. As a general rule there should not be a need to seek a variation to a premises licence issued under the Licensing Act in order to provide the gaming facilities covered by these provisions, but individual licensees who intend to do so would be well advised to check their own premises licence to ensure that no relevant restrictions have been included. If they are in any doubt about the relevance of a particular restriction they should contact their local licensing authority.

Exempt gaming

4.15 Section 279 authorises the provision of gaming facilities in alcohol-licensed premises. No further authorisation is required under the Gambling Act to make the gaming lawful, provided the following conditions are complied with:

- the facilities are limited to equal chance gaming (e.g. dominoes, cribbage or bingo);
- stakes and prizes for the gaming must not exceed the limits prescribed by the Secretary of State;
- no amount may be deducted or levied from amounts staked or won;
- no participation fee may be charged (and this includes membership subscriptions – see section 344(3) of the Act);
- the games played may only take place on one set of premises, i.e. there may not be any linking of games between premises; and
- children and young people (i.e. all those under 18 years of age) must be excluded from participation.

Bingo

4.16 Section 281 of the Act contains particular provisions, over and above those set out in section 279, regulating bingo played on alcohol-licensed premises, which are identical to those for bingo played in clubs – see 4.11 above. Once again, these provisions are intended to prevent facilities for bingo being offered on a large scale (“high turnover bingo”). Those licensees that wish to offer high turnover bingo will require a bingo operating licence from the Commission under Part 5 of the Act. The trigger for high turnover bingo is that the total stakes or prizes for bingo games played in any period of 7 days exceed £2000. If the holder of an on-premises alcohol licence offers high turnover bingo without the appropriate operating licence it will commit an offence under section 33 of the Act. Section 281 operates in a way that offences are only committed after the first week of high turnover bingo. Once that has happened an offence takes place if high turnover bingo is played again in the following twelve months, unless a bingo operating licence has been obtained. In addition, a licensee must inform the Commission whenever a high turnover period first begins (i.e. when it has had its first week of high turnover bingo), and failure to do so is an offence, with a maximum penalty of a level 3 fine. The Gambling Commission will be considering, in conjunction with representatives of the licensed trade, whether there is a need for a code of practice for bingo played under the exempt gaming provisions in alcohol-licensed premises.

Gaming machines: automatic entitlement

4.17 Section 282 of the Act authorises up to two Category C or D gaming machines to be made available on alcohol-licensed premises. It does this by exempting such premises from the premises related offence in Part 3 (section 37) and the offence relating to making gaming machines available in Part 10 (section 242). This exemption only applies if the person who holds the relevant alcohol licence has notified the licensing authority of his intention to make gaming machines available, and has paid the required notification fee. The section is also subject to the condition that gaming machines are to be made available in compliance with any relevant provision of a code of practice issued by the Gambling Commission.

4.18 Section 281, together with the other provisions of Part 12 on gaming machines in alcohol-licensed premises, replace the provisions for the grant of permits to alcohol licensed premises contained in section 34 and Schedule 9 of the Gaming Act 1968.

Licensed premises gaming machine permits

4.19 Section 283 of the Act allows further Category C or D gaming machines to be made available in alcohol-licensed premises (in addition to the two machines authorised under section 282) in accordance with a permit known as a licensed premises gaming machine permit. No limit is imposed by the Act on the number of gaming machines that can be made available under this section. In each case the licensing authority will specify on the permit the number of Category C or D gaming machines that it authorises. Schedule 13 to the Act sets out the detailed arrangements for licensed premises gaming machine permits. This Schedule does not have effect in relation to Scotland - section 285 of the Act enables Scottish Ministers to make alternative provision by regulations in respect of licensed premises gaming machine permits. The Scottish Executive will consult separately on a draft of such regulations.

Removal of exemption and cancellation of permits

4.20 Under section 284 of the Act a licensing authority may remove the equal chance gaming exemption or the automatic gaming machines entitlement for specific premises. An authority may do this if they think that:

- the application of the relevant section is not reasonably consistent with the Act's licensing objectives; or
- there has been a breach of a condition of either section 279 or 282 as appropriate (examples of such a breach would be where a participation fee had been charged for equal chance gaming on the premises, or where gaming machines were made available in breach of a relevant code of practice issued by the Gambling Commission); or
- the premises are mainly used or to be used for gaming; or
- an offence under the Gambling Act has been committed on the premises.

4.21 Before making an order in these circumstances the authority must give the licensee notice of its intention, consider any representations made, hold a hearing (if the licensee requests one) and comply with any other requirements prescribed in Regulations. There is a right of appeal to the magistrates' court or sheriff in Scotland.

4.22 Similar conditions apply to the cancellation or variation of a licensed premises gaming machine permit. Under paragraph 16 of Schedule 13 to the Act a licensing authority may cancel it (or vary the number or category, or both of gaming machines authorised by it), if they think that:

- it would not be reasonably consistent with pursuit of the licensing objectives for the permit to continue to have effect; or
- gaming has taken place on the premises in breach of the permit or a condition of the permit; or
- the premises are mainly used for making gaming machines available; or
- an offence under the Act has been committed on the premises.

Transitional arrangements

4.23 A permit issued under section 34 of the Gaming Act will continue to have effect after 1 September 2007 as if it were a licensed premises gaming machine permit issued under the new Act. After 1 September 2007 the following arrangements will apply:

- premises will have an automatic entitlement to two gaming machines, subject to a simple notification procedure – licensees should notify their licensing authority prior to the expiry of their existing Section 34 permit;
- premises with more than two gaming machines will need to apply to their licensing authority for a licensed premises gaming machine permit – an application should be made at least two months before the date on which the existing Section 34 permit is due to expire;
- in either case, gaming machines will need to be operated in accordance with the provisions of the relevant Gambling Commission code of practice.

4.24 Orders under section 6(3) of the Gaming Act authorising the playing of games other than dominoes or cribbage, together with any associated requirements or restrictions, will lapse on 1 September 2007 when the new Act comes into force. These orders will be superseded by the exempt gaming provisions summarised at 4.15 above.

Section 5: Proposals for consultation

Clubs

Gaming clubs

Bridge and/or whist

5.1 As explained above, the Secretary of State has the power (under sections 266(2) and 267(2) of the Act) to specify the kinds of gaming that would allow members' clubs or commercial clubs established for the purposes of providing such gaming to take advantage of certain rights under Part 12 of the Act. This reflects the position under the current legislation, in which clubs formed for playing two specific games, bridge and whist (or a combination of the two), enjoy certain entitlements under Schedule 3 to the 1968 Gaming Act. Clubs established for the purposes of prescribed kinds of gaming will also be able to take advantage of the fast-track procedure when applying for a club gaming permit under Schedule 12 to the Act.

5.2 The Government has always intended that bridge and/or whist clubs would, under the 2005 Act, continue to enjoy similar entitlements to those that they have under the current legislation. The most significant benefit arising from this will be the ability to apply for a club gaming permit, which itself confers additional entitlements (see 4.7 to 4.10 above). Under sections 266 and 267 of the Act bridge and/or whist clubs would qualify for a club gaming permit if they do not provide facilities for any other types of gaming during the course of their activities. This restriction does not apply to gaming machines but, unlike the position under the Gaming Act, clubs would not be able to provide facilities for other games like backgammon, bingo, pontoon or chemin de fer alongside their core activities. So if any bridge and/or whist club wanted to continue to offer such gaming they might not be able to qualify for a club gaming permit.

5.3 We believe that there are ways of addressing this within the Act and its supporting regulations, but before developing detailed proposals we need to have a better understanding of the ways in which bridge and/or whist clubs utilise their current entitlements under the Gaming Act, and the extent to which they are likely to wish to continue to do so when the corresponding provisions of the 2005 Act come into force. We would therefore welcome responses from clubs and their representative organisations (e.g. the national bridge unions) so that we have a detailed understanding of their requirements and expectations. In the meantime, however, it remains our intention to prescribe bridge and whist for the purposes of sections 266(2), 267(2), and Schedule 12 of the Act, so that those clubs that wish to do so may apply for a club gaming permit once the Act comes into force.

Q1. Should bridge and/or whist continue to be prescribed kinds of gaming for the purposes of sections 266 and 267 of the Act?

Q2. If you are a bridge and/or whist club are you currently registered under Part II of the Gaming Act 1968, and if so to what extent do you utilise the entitlements that registration confers?

Q3. If you are a bridge and/or whist club do you currently provide facilities for other types of gaming, and if so what types of gaming would you wish to be able to offer in the future?

Q4. If you are a bridge and/or whist club, what if any limits do you currently have on stakes or prizes for gaming on club premises?

Q5. If you are a bridge and/or whist club what is the maximum charge that you currently make for participation in gaming on club premises?

Poker

5.4 We are aware of suggestions that poker should be added to the list of prescribed games, thereby enabling poker clubs to apply for a club gaming or club machine permit as appropriate under Part 12 of the Act. Poker has become an increasingly popular form of gaming, as is evidenced by the amount of televised coverage of poker tournaments, the advent of poker leagues and the proliferation of online sites offering users the opportunity to play poker in its various forms. It is currently open to any club or institute registered under Part II of the Gaming Act 1968 to provide facilities for its members to play equal chance poker, as an ancillary activity, with no limits on stakes and prizes. A club must have at least 25 members and its conduct and constitution need to be permanent in nature. Under the current law members of this sort of club may play poker provided that no one is charged more than £2.60p per day to do so. This charge covers any sort of payment made by the player, apart from the stakes hazarded in the game. All stakes must be returned as prizes in the game itself, and no amount may be deducted. Poker may also currently be played, once again in its equal chance format, under the provisions of Part I of the Gaming Act, including in clubs formed specifically for the purpose, with a maximum participation fee of 60p.

5.5 Subject to the detailed proposals for the regulation of exempt gaming set out below, poker clubs would continue to be able to operate on these lines when the 2005 Act comes into force, while clubs and institutes established for other purposes would, as is the case now, be able to offer poker as an ancillary activity, although in both cases there will be prescribed limits on stakes and prizes. Members' clubs and institutes that obtain a club gaming permit (see 4.7 above) will be able to provide facilities for equal chance poker, as long as it is an ancillary activity, without such limits. Equal chance poker may also be played for low stakes in alcohol-licensed premises under section 279 of the Act (see 5.33 to 5.43 below), and under the private and non-commercial provisions set out in Part 14 of the Act. Finally, casinos will continue to be able to offer poker as both a banker's and equal chance game on the gaming floor or in dedicated card rooms.

5.6 In its recent published guidance on gaming in alcohol licensed premises the Gambling Commission drew attention to the potential risks associated with the playing of card games, such as equal chance poker, that involve escalating staking into a "pot" or "kitty". The Department shares the Commission's concerns. We have therefore concluded that, as there will be ample opportunities within the proposed licensing and regulatory framework for those who wish to play poker to do so in a variety of public and private environments, we do not see a persuasive case for including poker on the list of prescribed equal chance games. To do so would open up the prospect of large numbers of clubs, devoted to gambling and able to offer poker for unlimited stakes and prizes, but operating outside the licensed gambling regime, with its associated requirements and protections. This would not, we have concluded, be consistent with the licensing objectives, which are:

- 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; and
- protecting children and other vulnerable persons from being harmed or exploited by gambling.

It follows from the above that those poker clubs that wish to provide facilities for poker to be played for high stakes or prizes would need to obtain a casino operating licence.

Q6. Do you agree that poker should not be a prescribed kind of gaming for the purposes of sections 266 and 267 of the Act?

Other games

5.7 At this stage, the Department has no intention of prescribing additional kinds of gaming for the purposes of sections 266 or 267 of the Act, but we would be interested to know whether others consider that there is a case for doing so.

Q7. Are there any additional kinds of gaming that ought to be included within these provisions, and if so why?

Exempt gaming

5.8 The provisions relating to exempt gaming in members' clubs, institutes and commercial clubs are contained in sections 269 and 270 of the Act. There are a number of requirements set out in the Act itself (see 4.6 above), but the Secretary of State has the power to prescribe further requirements in relation to:

- the amounts that may be staked, or the amount or value of a prize - s269(2);
- the maximum level of any participation fee – s269(4);

5.9 Under section 270, subsections (2) and (4) different requirements about the limits on stakes, prizes and participation fees may be set for different types of club or institute, for different types of game, and for different types of fee. In addition, under subsection (4) regulations setting maximum participation fees may also make different provision according to whether the club holds a club gaming permit, and for different classes or description of fee.

Stakes and prizes

5.10 The first question to consider is whether there is a need for limits on stakes and prizes on exempt gaming in clubs or institutes. Under the 1968 Act there are no limits of this kind. But in its explanatory memorandum to the Delegated Powers and Regulatory Reform Committee during the passage of the Act, the Government made it clear that the intention behind the exemption was to enable clubs and institutes to continue to undertake certain limited, low stakes gaming, and that it would use the powers to limit stakes and prizes as necessary to ensure that gambling conducted under the exempt gaming provisions remains a low scale activity. Leaving stakes and prizes for all types of gaming unfettered could (as already discussed above) lead to high stakes, equal chance gaming (and in particular poker) in clubs that have not been subject to the formal scrutiny of the regulatory authorities. We consider that there are good reasons for concluding that unchecked gambling activity of this kind could prejudice the licensing objectives.

Q8. Do you agree that, as a general principle, gaming in clubs that do not hold a club gaming permit or casino operating licence should be for low stakes?

5.12 Having decided, in principle, that there should be limits on stakes and prizes, we need to consider how this should be applied in relation to different categories of club and different types of game. This is a new power, and there are no existing benchmarks to draw upon. We think that our objective should be to achieve a reasonable balance between allowing individuals in private, members-only clubs to engage in equal chance gaming for modest stakes and prizes, and the need identified above for high stakes gaming to take place only in appropriately regulated environments.

5.13 Low stakes, equal chance gaming between individual members (e.g. dominoes, cribbage, bridge or whist) is a common feature of many clubs. It is not the intention of these proposals to seek to restrict this kind of activity, which historically has not given rise to any significant concerns or complaints. Nor, as a general principle, would we expect clubs to maintain detailed records of the

total amounts of money staked or prizes won in such games. We will, however, expect clubs to monitor and control informal equal chance gaming of this kind in order to ensure that it remains a low stakes, low scale activity. Should evidence subsequently emerge to suggest that self-regulation is not working effectively, we will consider bringing forward additional regulations.

5.14 However, for the reasons already discussed above, we consider that different considerations apply to poker. Of particular significance in this regard is the escalating nature of staking in the equal chance poker format, and the inherent potential, in the absence of clear limits on stake and prize levels, for the “pot” or “kitty” to reach a significant size over the course of a game, and for individuals to lose large amounts of money. Whilst, therefore, we remain satisfied that all forms of gaming in clubs that do not hold a club gaming permit should be for low stakes and prizes, we have concluded that there is a case now for applying specific stake and prize limits to poker.

5.15 There is no statutory definition for “high-stakes” gaming. Section 275 of the 2005 Act already requires those clubs and institutes engaged in “high turnover bingo” to hold an operating licence, whether they hold a club gaming permit or not. Bingo played in the course of the activities of a club or institute is high turnover bingo if, during any period of seven days, the aggregate of either stakes or prizes exceeds £2000. We have considered whether this limit would be right for poker but have concluded, for the reasons discussed in 5.14 above, that the associated regulatory risks are greater, and that a lower threshold is therefore called for.

5.16 In its most recent advice on gaming in alcohol-licensed premises the Gambling Commission recommended “that stakes in such games are so limited by application of section 6(4) that a successful player is able to win on a game an amount comparable to the price of a round of drinks”. Whilst this benchmark is a helpful one in the context of the existing arrangements, we need to achieve a greater degree of precision for the purposes of the regulations under the 2005 Act, not least to provide clubs with a clear understanding of what is, and is not permitted.

5.17 As indicated above, the public policy objective underlying these provisions is to allow clubs and institutes that do not hold a club gaming permit to offer facilities for limited, low-level gaming to their members. In determining what the specific limits on stakes and prizes for poker should be, we will therefore be looking to ensure that both the overall amount of such gaming, and the level of risk to individual players represented by the amount that may be staked, are consistent with this objective. We therefore propose a two-tier approach which:

- (a) prescribes limits for the total value of poker that takes place in a club or institute within a given period; and
- (b) prescribes a limit for the amount that a participant may stake in a game.

5.18 For (a) we propose that the aggregate amounts of stakes for poker should be a maximum of £1000 in any seven day period; and a maximum of £200 on any single day, and that the aggregate of prizes won in playing poker should be subject to the same limits. The weekly limit would be half the corresponding figure for club bingo, reflecting the higher level of risk to the licensing objectives (and individual players) represented by gaming of this kind. The daily limit is intended to avoid a situation whereby, for example, a weekly poker tournament in a club or institute could offer a prize to the winner of up to £1000. This was not the nature or scale of gaming that was envisaged when these provisions were approved by Parliament.

5.19 For (b), we propose that the limit should be a maximum of £10 per person, per game. This is a higher figure than that proposed elsewhere in this document for gaming in pubs and other alcohol-licensed premises, and takes account of the essentially private and more readily controlled nature of the club environment, and the fact that all of the players will either be members or invited guests.

5.20 Clearly, as with bingo, ensuring that these limits are not breached will require clubs to maintain records of the amounts staked and won by players at poker. We do not consider that this need be an onerous burden, and suggest that adherence to the limits might be aided through the development of a code of practice for gaming in clubs and institutes. The issues that might be covered in such a

code could include: measures to aid compliance with specified stake and prize limits; efficient and effective record keeping; and fairness and social responsibility issues. A code might also contain provisions that would help those clubs or institutes that do not hold a club gaming permit to satisfy themselves that all gaming on their premises, of whatever type, continues to be for low stakes. It could also cover the detailed arrangements for the conduct of exempt bingo as already mentioned above. We will be discussing this with interested parties, including the Gambling Commission, representatives of the clubs and institutes sector and problem gambling organisations, alongside this consultation.

Q9. Do you agree that, other than in the case of poker, there is no need at the present time to prescribe limits for stakes and prizes for equal chance gaming in clubs that do not hold a club gaming permit or operating licence?

Q10. Do you agree that the nature of poker (i.e. the potential for escalating stakes and large prizes) calls for a different approach?

Q11. Do you agree with the specific proposals for limiting stakes and prizes for poker, and if not what do you think they should they be?

Q12. Do you agree that a code of practice would be helpful, and if so what kind of provisions might it contain?

5.21 Given the other statutory constraints on those providing facilities for exempt gaming (e.g. the prohibition on levies or deductions and the cap on participation fees) we do not consider that there is a need to vary this limit as it applies to different types of clubs. But if respondents feel that there is a case for doing so we would be prepared to consider it. In any event, the Department intends to keep all of these matters under review, and will consider making adjustments, as necessary, in the light of experience and any advice from the Gambling Commission.

Participation fees

5.22 Section 269(4) of the Act requires that any participation fee payable to engage in exempt gaming in clubs or institutes should not exceed an amount specified in regulations by the Secretary of State. Section 344 of the Act defines a participation fee as:

“an amount paid in respect of entitlement to participate in gambling; and for that purpose-

- (a) it is immaterial:
 - (i) how a fee is described;
 - (ii) whether a fee is payable in money or money’s worth;
 - (iii) when and how a fee is payable;
 - (iv) to whom a fee is payable,
- (b) a charge for admission to premises where gambling takes place shall be treated as a participation fee,
- (c) a membership subscription is not a participation fee (subject to subsections (2) and (3)), and
- (d) a stake is not a participation fee.”

5.23 Subsection (2) of section 344 gives the Secretary of State powers to make regulations providing for a membership subscription to be treated as a participation fee in specified circumstances. At this stage we have not identified a need to activate this provision, but once again we will keep this under review, and further regulations may be brought forward if experience suggests that there is abuse in this area.

5.24 As in the case of the limits on stakes and prizes, section 270(4) contains powers to make different provision according to the class of club or institute, whether or not a club gaming permit is held, for different classes or description of game, and the class or description of fee. The current limits on participation fees are set by the Gaming (Small Charges) Order 2000 (SI 2000/2802) which specifies the following charges under section 40 of the 1968 Act:

- in the case of gaming that consists exclusively of playing bridge or whist, or bridge and whist, and takes place on a day on which the premises are not used for any other gaming (other than gaming machines to which Part III of the 1968 Act applies) the maximum that can be charged for participating in the gaming is £15 per day;
- in all other cases of equal chance gaming the maximum that can be charged is 60p on any one day.

5.25 Historically these fees have been kept at a low level in order to prevent commercial exploitation of what are intended to be low scale gambling activities. We do not, therefore, see a need for a significant increase now. However, given that they have remained unchanged for more than six years we think that this represents an appropriate and timely opportunity to review them. In discussions with representatives of clubs and institutes it was suggested that an increase from 60p to £1 in the maximum fee for most types of equal chance gaming would be welcomed by the clubs sector. We have received no representations for a similar adjustment to the corresponding figure for bridge and/or whist clubs, but in all the circumstances we think that it would be reasonable to propose a small increase here also. We therefore propose that the maximum daily participation fee for exempt gaming in clubs or institutes that do not hold a club gaming permit should be set at the following levels:

- bridge/whist - £18
- all other equal chance gaming - £1

Increases of this order would take account of general inflation since the limits were last raised, and hopefully avoid the need for a further, early review once the 2005 Act is in force.

Q13. Do you agree that maximum participation fees for exempt equal chance gaming should be increased as proposed?

Club gaming permits

5.26 Under section 271 of the Act, members' clubs and miners' welfare institutes (but not commercial clubs) will be able to apply for a club gaming permit from their licensing authority to authorise the provision of specified games of chance and gaming machines on premises from which the club operates. A club gaming permit would also enable a members' club or institute to provide facilities for equal chance gaming with unlimited stakes and prizes.

Participation fees for equal chance gaming

5.27 In its explanatory memorandum to the Delegated Powers and Regulatory Reform Committee the Government indicated that it was intended that participation fees for equal chance gaming conducted under the provisions of a club gaming permit should be higher than those conducted under the exempt gaming provisions. This reflects the corresponding provision in the 1968 Act, which allows clubs registered under Part II of that Act to charge an additional £2. We therefore propose that the maximum daily participation fee to be charged for equal chance gaming where a club gaming permit is held should be:

- for bridge and/or whist, £20;

- all other equal chance gaming, £3

This would maintain the current £2 differential over the limits proposed in 5.25 above.

Q14. Do you agree that the corresponding fees for equal chance gaming conducted under the provisions of a club gaming permit should be as proposed?

5.28 There are three further areas in which the Secretary of State has powers to make regulations: the additional games of chance that may be played under the authority of a permit; maximum participation fees for those games; and the amount, if any, that may be levied on stakes and prizes.

Additional games of chance

5.29 Section 271(3)(c) of the Act allows the provision of facilities for games of chance, of such class or description as may be prescribed in regulations. The intention here is to allow the Secretary of State to authorise particular games involving a bank or unequal chance games, and which therefore fall outside the exempt gaming allowance, to be played under the permit. The equivalent provision in the 1968 Act permits pontoon and chemin de fer to be played, and in order to maintain this position it is the Department's intention that these games should be prescribed under section 271. We have no plans, at the present time, to prescribe additional games, and while we would be prepared to consider any specific proposals in this area, we are not minded to include bankers' games of the kind normally played in casinos (e.g. blackjack or roulette).

Q15. Do you agree that members' clubs and institutes should continue to be allowed to provide facilities for pontoon and chemin de fer under the provisions of a club gaming permit?

Q16. Are there any additional games of chance that ought to be included within these provisions, and if so why?

Participation fees

5.30 Section 271 of the Act gives the Secretary of State powers to make regulations which prescribe the circumstances in which a fee may be charged, and the amount of the fee, for participation in the additional games of chance discussed above (i.e. pontoon and chemin de fer). The corresponding provision in the 1968 Act currently provides for a maximum aggregate charge of £2 per person per day (a day being the period from midday one day to midday the next). We think that it is reasonable that clubs and institutes should be able to make a small charge to participating members in order to help to cover the cost of providing gaming facilities, and the Department intends to maintain this position in the regulations under the 2005 Act, with the maximum charge to be set at £3 per day, in line with our proposals for the corresponding fee for "other" equal chance gaming.

Q17. Do you agree that the maximum daily charge for participation in games of chance conducted under the provisions of a club gaming permit should be £3 per person?

Levy on stakes and prizes

5.31 Section 271 of the Act also gives the Secretary of State powers to make regulations that would allow deductions or levies to be imposed by holders of club gaming permits on sums staked or won by participants in additional games of chance. There is no corresponding provision in the 1968 Act, and given that clubs will continue to be able to charge a participation fee for gaming, we do not see a need to activate these additional powers at this time. But we would be prepared to consider any representations on this matter from clubs or their representatives.

Q17. Do you agree that there is no need, at this time, to activate the powers that would enable holders of club gaming permits to impose deductions or levies on sums staked or won in games of chance?

Compliance and sanctions

5.32 Clubs will be expected to monitor any gaming that takes place on their premises, and take all reasonable steps to ensure that it complies with the conditions set out in the Act or in regulations. Under section 312 of the Act, a constable or Gambling Commission enforcement officer may enter club premises in order to determine whether gaming carried on there is in accordance with the statutory conditions or the terms of any club gaming or club machine permit that might be held. Any breach of the statutory conditions for the gaming would render those providing the premises or facilities liable to prosecution under section 33 or 37 of the Act. Any breach of a permit could lead to its cancellation by the licensing authority, and might also constitute an offence under section 33 or 37 of the Act.

TABLE 1: SUMMARY OF ENTITLEMENTS AND PROPOSALS FOR ELIGIBLE CLUBS

	Members' Club, Commercial Club or Institute (with no Permit)	Members' Club or Institute (with Club Gaming Permit)	Members' or Commercial Gaming Club (with no Permit)	Members' Gaming Club (with Club Gaming Permit)	Members' Club, Commercial Club or Institute (with Club Machine Permit)
Equal Chance Gaming	Yes	Yes	Yes	Bridge and/or Whist only	Yes
Banker's or Unequal Chance Gaming	No	Pontoon Chemin de Fer	No	No	No
Stake & Prize Limits	Poker £1000 per week £200 per day £10 per person, per game Other gaming None, but expectation that it should be for low stakes	None	Poker £1000 per week £200 per day £10 per person, per game Other gaming None, but expectation that it should be for low stakes	None	Poker £1000 per week £200 per day £10 per person, per game Other gaming None, but it expectation that it should be for low stakes
Maximum Participation Fees	Bridge and/or Whist £18 per person Other gaming £1 per person	Bridge and/or Whist £20 per person Other gaming £3 per person	Bridge and/or Whist £18 per person Other gaming £1 per person	£20 per person	Bridge and/or Whist £18 per person Other gaming £1 per person
Levies or deductions from stakes or prizes	No	No	No	No	No
Gaming Machines	No	Up to 3 Category B4, C or D	No	Up to 3, Category B4, C or D	Up to 3 Category B4, C or D

Alcohol-licensed premises

Exempt gaming

5.33 As indicated above, section 279 of the Gambling Act authorises the provision of gaming facilities in certain alcohol-licensed premises, subject to a number of conditions. No further authorisation is required under the Act to make the gaming lawful, provided the statutory conditions are complied with. The conditions are as follows:

- the facilities are limited to equal chance gaming (e.g. dominoes, cribbage and whist);
- the arrangements for the gaming must satisfy prescribed requirements for limiting the amounts that may be staked or limiting the amount or value of a prize;
- no amount may be deducted or levied from amounts staked or won;
- no participation fees may be charged (and this includes membership subscriptions – see section 344(3) of the Act);
- the games played may only take place on one set of premises, i.e. there may not be any linking of games between premises; and
- children and young people (i.e. all those under 18 years of age) must be excluded from participation.

5.34 In its evidence to the House of Lords' Regulatory Reform and Delegated Powers Committee during the passage of the Act, the Government made it clear that the intention behind this exemption was to enable alcohol-licensed premises to provide minor, low-level gaming.

5.35 These provisions replace those under section 6 of the Gaming Act 1968 whereby cribbage and dominoes may be played on premises licensed to sell alcohol for consumption there. It is also currently possible, under section 6(3), for the holder of such a licence to apply to the local licensing authority for permission for other forms of gaming to be provided on the premises. In all cases conditions may be made, under section 6(4), to prevent high-stake gaming taking place, or to ensure that the gaming does not become the main inducement to attend the premises.

5.36 As mentioned above, there is no statutory definition for "high-stake" gaming, and in its most recent advice on gaming in pubs and similar premises the Gambling Commission recommended "that stakes in such games are so limited by application of section 6(4) that a successful player is able to win on a game an amount comparable to the price of a round of drinks". Whilst this is a helpful benchmark for the purposes of the current arrangements, as already discussed in relation to gaming in clubs and institutes, a greater degree of precision will be required for regulations under the 2005 Act, so that licensees have a clear understanding of what is, and is not permitted.

Types of gaming

5.37 A number of different types of game come within the broad definition of equal chance gaming. Examples include the traditional "pub games", dominoes and cribbage; games perhaps more commonly played in a club or domestic environment, such as bridge, whist or backgammon; popular group games, like bingo; and games that have historically been seen as lying towards the more commercial end of the gambling spectrum, such as poker.

5.38 Under section 280 of the Act, regulations prescribing requirements for limiting stakes and prizes may make different provision for different classes or descriptions of game. The first question to be considered, therefore, is whether we need to apply the same set of regulatory provisions to each type of game. Clearly the nature and extent of any regulation should be proportionate to the level of risk inherent in the activity under consideration. Dominoes and cribbage have been played in pubs for low stakes for many years, and we are not aware of any associated social or other problems that are likely to be prejudicial to the Act's objectives. Similar considerations would appear to apply to games like bridge, whist and backgammon. Bingo, whilst widely regarded as a form of "soft", social gaming, is already subject to separate statutory restrictions summarised at 4.16 above.

5.39 As discussed elsewhere in this document, poker has become a far more visible, popular and socially accepted game in recent years, with widespread television coverage and the advent of poker leagues and tournaments. Playing poker need not be for high stakes, indeed in certain league formats the game may be played for points, with relatively small or low value prizes (or a trophy) on offer for the successful player or team. We have no wish to prevent, or constrain unreasonably, low risk gaming activities. Nor do we want to drive those who want to play low stakes poker underground, where cheating, and exploitation of players by unscrupulous or criminal interests would have the opportunity to flourish. But at the same time we are conscious of the concerns articulated by the Gambling Commission in its published guidance on gaming in alcohol licensed premises. Of particular significance in this regard is the escalating nature of staking in the equal chance poker format and the inherent potential, in the absence of effective controls on stake and prize levels, for the “pot” or “kitty” to reach a significant size during the course of a game, and for individuals to find themselves losing large sums of money. Whilst, therefore, we are clear that all forms of gaming on alcohol-licensed premises should continue to be for low stakes and prizes (and we will consider below what those limits might be) we have concluded, in the same way that we have done for gaming in clubs, that more stringent requirements should apply to poker.

Q18. Do you agree that there should be more stringent requirements for poker?

Q19. Are there any other types of gaming that should have similar requirements?

Limits on stakes and prizes

5.40 As indicated above, the intention of these provisions is to allow pubs and similar publicly accessible licensed premises, should they wish to do so, to offer facilities for minor, low-level gaming to their customers. For clubs, where historically there have been no prescribed limits on stakes and prizes, we have taken the view that there is no demonstrable need to introduce them now for the generality of gaming that takes place, and propose only to regulate in respect of poker. We will, however, be keeping this approach under review and will consider further intervention should evidence emerge that it is not working effectively. The position in respect of pubs and other alcohol-licensed premises is, we feel, rather different. These are public premises, where both the range and the scale of gaming have, historically, been subject to tighter restrictions. The greater flexibility provided by the 2005 Act therefore needs to be implemented and managed carefully, and in a way that is consistent with the Act’s underlying objectives of preventing gambling being a source of crime or disorder, ensuring that it is conducted fairly and openly, and protecting the vulnerable.

5.41 Therefore, in seeking to ensure that both the value and the volume of any gaming that takes place are consistent with the policy objective of allowing minor, low-level gaming, we have concluded that there should be a limit on individual stakes in all types of gaming. We have already decided, for the reasons discussed above in relation to gaming in clubs, that there is also a need to distinguish between games like cribbage, dominoes or whist, which have historically been played for low stakes, and poker, which is more likely to be played for higher stakes and prizes. Once again, therefore, we propose a two-tier approach which would:

- (a) specify a daily limit for the amount that an individual player may stake in gaming, of whatever type or description, on any single premises; and
- (b) specify premises-based limits for the total value of poker that takes place within a given period.

5.42 We have considered whether the general limit on individual stakes should be the same as that proposed for poker played in clubs (i.e. £10) but have concluded, for the reasons discussed in 5.41 above, that a lower limit is called for. We therefore propose that the limit should be a maximum of £5 per person, per game.

Q20. Do you agree that there should be a limit of £5 per person on stakes for any type of gaming?

5.43 Turning now to the measures needed to control the amount and value of poker played in individual pubs and other alcohol-licensed premises, we have concluded (as we have for clubs) that both daily and weekly limits will be needed if we are to have confidence that gaming remains a low

scale, low stake activity in line with the declared policy objective. We therefore propose that the aggregate amount of stakes and the aggregate amount of prizes for playing poker should each be up to:

- a maximum of £500 in any seven day period; and
- a maximum of £100 in any single day.

5.44 We have considered whether these limits should be £1000 and £200, in line with the corresponding proposals for gaming in clubs and institutes, but once again have taken into account the fact that here gaming will be taking place on premises to which the public has access which, in our judgement, calls for lower limits.

Q21. Do you agree with the proposals for daily and weekly limits for poker?

Compliance and sanctions

5.45 Licensees will be expected to monitor any gaming that takes place on their premises, and take all reasonable steps to ensure that it complies with:

- (a) the conditions set out in the Act (5.33 above); and
- (b) the limits on stakes and prizes (5.42 and 5.43 above).

5.45 Under section 310(2) of the Act, a constable, Gambling Commission enforcement officer or authorised local authority officer may enter premises that hold an on-premises alcohol licence in order to determine whether gaming carried on there satisfies the statutory conditions. Any breach of those conditions in respect of particular premises would leave them liable to the loss of their entitlement to offer gaming, and would also constitute an offence under section 33 or 37 of the Act. Any individual convicted of such an offence would be liable to a term of imprisonment not exceeding 51 weeks, a fine of up to £5000, or both. Where a breach of the Gambling Act has implications for alcohol licensing objectives it may, as with breaches of other laws, be taken into account by licensing authorities in the exercise of their functions under the relevant legislation, and may also be considered by the police and other relevant authorities in deciding whether to apply for a review of the relevant alcohol licence.

5.46 We recognise that ensuring that any gaming that takes place complies with the above requirements is likely to represent a challenge to those responsible for the operation of licensed premises. Individual licensees will therefore need to take this into account in deciding whether or not they intend to take advantage of the additional flexibility that the 2005 Act provides. Following informal discussions with a range of parties, including the Gambling Commission and representatives of the licensed trade, about how compliance might best be achieved we have concluded that licensees are likely to need to adopt a proactive approach to the supervision of any gaming, and in particular poker, that they decide to permit. As in the case of clubs and institutes, we think that a code of practice for gaming in alcohol-licensed premises is likely to be of considerable benefit to those who will be responsible for ensuring that the statutory conditions are met. We will be using this consultation exercise to develop detailed proposals, but amongst the provisions that have already been suggested are: all playing cards and any other gaming equipment (e.g. chips) to be provided by the premises; an obligation on licensees to ensure that all participants in the gaming are made aware of the limits on stakes and prizes; restrictions on the numbers of customers able to play at any one time; a requirement for records to be kept of the amounts staked and won at poker; and a commitment to exclude any customers who breach the statutory conditions. We will also be considering, in conjunction with the Gambling Commission, representatives of the licensed trade and other interested parties, whether an industry code of practice is likely to be sufficient or, alternatively, whether a code issued by the Commission under section 24 of the Act would be more appropriate.

Q22. Do you agree that a code of practice for gaming in alcohol-licensed premises would be helpful?

Q23. If so, what provisions might it contain?

TABLE 2: SUMMARY OF ENTITLEMENTS AND PROPOSALS FOR ALCOHOL-LICENSED PREMISES

	With No Permit	With Licensed Premises Gaming Machine Permit
Equal chance gaming	Yes	Yes
Unequal chance gaming	No	No
Stake and Prize limits	<p><u>Maximum of:</u></p> <p>(1) £5 per person per game (all types of gaming)</p> <p>(2) £500 per week and £100 per day (poker only)</p>	<p><u>Maximum of:</u></p> <p>(1) £5 per person per game (all types of gaming)</p> <p>(2) £500 per week and £100 per day (poker only)</p>
Participation Fee	No	No
Deductions or Levies	No	No
Gaming Machines	Category C and/or D - maximum of two machines, subject to notification to the licensing authority	Category C and/or D - as many machines as approved by the licensing authority and specified in the permit

Section 6: List of questions

Clubs and institutes

- Q1. Should bridge and/or whist continue to be prescribed kinds of gaming for the purposes of sections 266 and 267 of the Act?*
- Q2. If you are a bridge and/or whist club are you currently registered under Part II of the Gaming Act 1968, and if so to what extent do you utilise the entitlements that registration confers?*
- Q3. If you are a bridge and/or whist club do you currently provide facilities for other types of gaming, and if so what types of gaming would you wish to be able to offer in the future?*
- Q4. If you are a bridge and/or whist club, what if any limits do you currently have on stakes or prizes for gaming on club premises?*
- Q5. If you are a bridge and/or whist club what is the maximum charge that you currently make for participation in gaming on club premises?*
- Q6. Do you agree that poker should not be a prescribed kind of gaming for the purposes of sections 266 and 267 of the Act?*
- Q7. Are there any additional kinds of gaming that ought to be included within these provisions, and if so why?*
- Q8. Do you agree that, as a general principle, gaming in clubs that do not hold a club gaming permit or casino operating licence should be for low stakes?*
- Q9. Do you agree that, other than in the case of poker, there is no need at the present time to prescribe limits for stakes and prizes for equal chance gaming in clubs that do not hold a club gaming permit or operating licence?*
- Q10. Do you agree that the nature of poker (i.e. the potential for escalating stakes and large prizes) calls for a different approach?*
- Q11. Do you agree with the specific proposals for limiting stakes and prizes for poker, and if not what do you think they should be?*
- Q12. Do you agree that a code of practice would be helpful, and if so what kind of provisions might it contain?*
- Q13. Do you agree that maximum participation fees for exempt equal chance gaming should be increased as proposed?*
- Q14. Do you agree that the corresponding fees for equal chance gaming conducted under the provisions of a club gaming permit should be as proposed?*
- Q15. Do you agree that members' clubs and institutes should continue to be allowed to provide facilities for pontoon and chemin de fer under the provisions of a club gaming permit?*
- Q16. Are there any additional games of chance that ought to be included within these provisions, and if so why?*

Q17. Do you agree that there is no need, at this time, to activate the powers that would enable holders of club gaming permits to impose deductions or levies on sums staked or won in games of chance?

Alcohol-licensed premises

Q18. Do you agree that there should be more stringent requirements for poker?

Q19. Are there any other types of gaming that should have similar requirements?

Q20. Do you agree that there should be a limit of £5 per person, game on individual stakes for any type of gaming?

Q21. Do you agree with the proposals for daily and weekly limits for poker?

Q22. Do you agree that a code of practice for gaming in alcohol-licensed premises would be helpful?

Q23. If so, what provisions might it contain?