

## Appendix 1

### Draft Regulatory Impact Assessment: Gambling Act 2005: Gaming In Clubs and on Alcohol-licensed Premises

#### 1. Title of proposal

- (a) Gambling (Gaming In Clubs) Regulations
- (b) Gambling (Exempt Gaming In Clubs) Regulations
- (c) Gambling (Club Gaming Permits)(Authorised Gaming) Regulations
- (d) Gambling (Limits on Exempt Gaming on Alcohol-licensed Premises) Regulations

#### 2. Purpose and intended effect

##### 2.1 Objective

- (a) To prescribe particular kinds of gaming, thereby allowing members' clubs established for the purposes of providing such gaming to take advantage of rights under Part 12 of the 2005 Act.
- (b) To prescribe limits on stakes and prizes and a maximum participation fee for exempt equal chance gaming conducted in eligible clubs, in order to ensure that gaming in this context continues to be a low scale, low stakes activity.
- (c) To prescribe the games of chance that may be played under the authority of a club gaming permit, and a maximum participation fee for such gaming
- (d) To prescribe requirements for limiting stakes and prizes for exempt equal chance gaming conducted on premises licensed for the sale of alcohol.

##### 2.2 Background

Part 12 of 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 must fall within one of these categories (although not all gaming rights are equally available to all three categories of club).

- (a) Gaming Clubs: 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 rights conferred by Part 12. However, the Act gives the Secretary of State powers to prescribe particular kinds of gaming thereby allowing members' clubs and commercial clubs established for the purposes of providing such gaming to take advantage of rights under Part 12.
- (b) Exempt Gaming in clubs: sections 269 and 270 of the Act give clubs and institutes the right to undertake certain limited, low stake gaming, without the need for any specific authorisation under the Act. Thus, provided the gaming complies with a number of conditions, the club or institute concerned will not be committing an offence. A number of the conditions involve powers for the Secretary of State, and these regulations cover those powers.

(c) Club Gaming Permits: Section 271(3)(c) of the Act allows those clubs holding a club gaming permit to provide facilities for prescribed games of chance. The intention here is to allow the Secretary of State to authorise particular games involving a bank or unequal chance games (which it would otherwise be unlawful to facilitate) to be played under the permit. Once again, gaming conducted under the provisions of a permit must comply with conditions, a number of which are to be set by the Secretary of State through regulations. It should be noted, however, that the government does not, at this stage, intend to implement the provision that would enable clubs to impose levies or deductions on stakes and prizes for games of chance conducted under a club gaming permit.

(d) Exempt Gaming on Alcohol-licensed Premises: Section 279 of the Act enables premises with an "on-premises alcohol licence" to provide equal chance gaming, subject to a number of conditions. These conditions include a prohibition on levies or deductions on stakes or prizes, a prohibition on participation fees, no linking of games between premises, and the exclusion from the gaming of children and young persons. In addition the Secretary of State is required to prescribe requirements for limiting stakes and prizes for the gaming.

### 2.3 Rationale for government intervention

The underpinning rationale for intervention in this area is permissive, i.e. to enable clubs and certain premises licensed for the sale of alcohol to undertake low scale, low stake gaming without the need for express permission under the Act (e.g. a licence or permit). The need for specific interventions derives from powers and obligations already contained within the Gambling Act 2005, and the regulations covered by this document are required to give practical effect to the Act's enabling provisions. A number of the proposals set out in the draft regulations are aimed at maintaining the same operating framework as currently applies to gaming in clubs under the Gaming Act 1968, although the opportunity is being taken to up-rate some of the maximum charges to take account of the passage of time since they were last revised.

In respect of Objective (b) above there is discretion not to prescribe limits on stakes and prizes, but this would be incompatible with the underpinning regulatory rationale.

For objective (d) the rationale for intervention is to ensure that gaming in pubs and similar premises is restricted to low scale, low stake gambling of the kind traditionally available.

## **3. Consultation**

### 3.1 Public sector consultation

The government has consulted the Gambling Commission, the Local Authority Coordinators of Regulatory Services (LACORS), the Scottish Executive and the Association of Chief Police Officers in the development of these proposals.

### 3.2 Wider consultation

We have also met a number of representatives from the relevant sectors, including the Committee of Registered Clubs Associations (CORCA), the Clubs and Institutes Union (CIU), Action for Communities in Rural England (ACRE), the Central Council for Physical Recreation (CCPR), Business in Sport and Leisure (BISL) and the British Beer and Pub Association (BBPA). As part of the formal consultation we are planning to engage further with these organisations, groups representing a wide cross-section of community interests and problem gambling organisations.

#### 4. Options

Option 1: Do nothing. This would not be feasible. Without the detailed regulations provided for in these proposals it would, in many cases, be impossible for clubs or others to provide gaming facilities for their members. Clubs established wholly or primarily for the provision of prescribed gaming would be unable to bring themselves within the provisions of Part 12 of the Act, and as a consequence would be unable to continue to function as they do now. Failure to prescribe maximum participation fees for gaming would render the primary, enabling legislation inoperable in a number of circumstances, and would have a detrimental impact on the bona fide activities of clubs and, potentially, their viability. Failure to prescribe games of chance would have similar consequences. Failure to implement the power to set limits on stakes and prizes for equal chance gaming would run contrary to the government's objective of ensuring that gaming in less regulated clubs (i.e. those operating without a gaming permit issued by the local licensing authority) and those premises licensed for the sale of alcohol remains a low scale, low stake activity, and would represent a risk to the underpinning objectives of the Act. **The government has therefore rejected this option.**

Option 2: Implement regulations where the Act requires it, but do nothing where discretion exists. This would be feasible, technically, but would still result in a number of negative consequences and anomalies. Gaming clubs would still be unable to bring themselves within Part 12, and would have to rely solely on the Act's exempt gaming provisions, which would have a significant negative impact on their income. It would also still be impossible for clubs to provide facilities for games of chance, while the risks associated with a decision not to prescribe limits on stakes and prizes for exempt equal chance gaming would remain as for Option 1. **The government has therefore rejected this option.**

Option 3: Implement regulations in full, other than where indicated at 2.2 (c) above. This would enable the intended regulatory framework for gaming clubs to be brought into full effect, and would help to ensure that gaming in unregulated clubs and on those premises licensed for the sale of alcohol remains a low scale, low stakes activity. **This is the government's preferred option.**

#### 5. Costs and benefits

##### Sectors and groups affected

- Members' clubs
- Miners' Welfare Institutes
- Commercial clubs
- Pubs and other alcohol-licensed premises

There are no readily verifiable statistics for the number of clubs and institutes currently operating in this country, but it is believed that there are at least 40,000 clubs of one description or another. However, a significant proportion of these will not be premises-based. The latest available figures from licensing authorities suggest that there are in excess of 20,000 clubs licensed to sell alcohol, and it is within this group that the majority of clubs engaged in gaming, of one form or another, are likely to be situated.

The 2006 survey of licensing authorities undertaken by the Gambling Commission produced the following figures for current club registrations under the 1968 Gaming Act:

Part II: England & Wales – 340; Scotland – 60

However, these figures relate to only just over half the total number of licensing authorities (albeit most of the larger ones), and it is therefore reasonable to assume that the national figures are likely to be at least 500 (for Part II registrations) and 10,000 (for Part III).

The latest available licensing statistics suggest that there are in excess of 80,000 pubs and other premises licensed for the sale and consumption of alcohol on the premises. It is not known what proportion of these provide facilities for or otherwise permit equal chance gaming, but the playing of dominoes, cribbage and similar games for low stakes is a traditional pastime in many pubs.

### Benefits

Although it is not possible to quantify the financial benefits flowing from these particular regulations, it is clear from discussions with clubs representatives that gaming, in one form or another, is an important activity in many clubs, and makes a significant contribution to club funds. These proposals will, in the vast majority of circumstances, enable clubs to continue to function as they do now. The proposed increases in the maximum level of participation fees for gaming should make a positive contribution to club revenues, although it will be for individual clubs themselves to decide the extent to which they take advantage of these increases. For pubs and similar premises, while the freedom to allow equal chance gaming of all kinds is enshrined in the 2005 Act itself, the establishment of definitive limits on stakes and prizes should provide much greater clarity for licensees about what is and is not permitted, in contrast to the current legislation which refers only to the fact that gambling must not be for "high stakes". It will also remove from licensees the requirement to obtain approval from licensing authorities for additional types of equal chance gaming.

### Costs

There are no direct costs associated with these proposals. The costs associated with obtaining and maintaining club gaming and club gaming machine permits will be the subject of a separate consultation and regulatory impact assessment.

Indirectly, where clubs are currently providing gaming there may be some additional costs in the following areas:

- (a) keeping records of sums staked and won at poker to ensure that daily and weekly limits are not breached; and
- (b) where they intend to provide gaming for stakes or prizes totalling more than £1000 per week, the need to apply for and maintain a club gaming permit.

Informal discussions with clubs representatives suggest that the number of clubs falling into the latter category is likely to be very small indeed, and of those it is reasonable to conclude that some will already be registered under Part II of the Gaming Act (and therefore already meeting the associated regulatory costs).

For pubs and similar premises that wish to permit gaming, there will, potentially, be some costs associated with the need to monitor gaming activities to ensure that limits are not being breached. It will be for individual licensees to decide whether or not the benefits of allowing equal chance gaming on their premises outweigh any costs associated with policing the activity. There will be no obligation on them to permit such gaming on their premises if they do not wish to do so.

The consultation proposes the introduction of codes of practice for gaming in clubs and pubs. These will be developed in partnership with the relevant sectors, and once we have a clearer view about the way in which the provisions covered by these regulations (and in particular those relating to poker) are likely to be implemented in practice we should be better placed to provide an assessment of the potential impact. At this stage, however, it seems to us that any additional costs associated with these proposals are likely to be minimal.

## **6. Small Firms Impact Test**

The vast majority of clubs likely to be affected by these proposals probably fall within the broad definition of a small firm. Of those all but a handful are likely to be non-profit making private members clubs and institutes. As indicated above, these proposals are primarily permissive in nature, and most clubs will continue to function as they do now, with any marginal additional costs more than offset by the associated benefits, including the ability to charge higher participation fees to their members. Similar considerations apply in respect of pubs and other alcohol-licensed premises. These proposals are unlikely, therefore, to have a disproportionate impact on small firms.

## **7. Competition assessment**

The statutory framework for gaming in clubs is predicated on the assumption that premises-based commercial gaming for anything more than low stakes and prizes should take place only in licensed casinos and bingo clubs. Whilst, therefore, commercial clubs may provide a limited range of gaming opportunities for their members, the statutory limits on participation fees and stakes and prizes, and the inability to levy deductions mean that gaming is, as a general rule, an ancillary activity. Any competition constraints arising from the fact that non-commercial clubs and institutes may obtain a Club Gaming Permit (and therefore, unlike their commercial counterparts, provide unlimited stakes and prize gaming for their members) are a consequence of the primary legislation (the Gambling Act 2005), which was subject to its own Regulatory Impact and Competition Assessments. For pub and other alcohol-licensed premises gaming is, once again, intended to be an ancillary, low scale activity. The Act provides certain exemptions and entitlements to a limited amount of gaming, subject to conditions (including those contained in these proposals). It is not considered that the proposed limits on stakes and prizes will have a disproportionate impact as between different types of operator or premises.

## **8. Enforcement, sanctions and monitoring**

It is anticipated that clubs will, as now, be responsible to a significant extent for regulating their own gambling activities. Local licensing authorities will be responsible for issuing and renewing permits and, in partnership with the Gambling Commission (which has broad responsibilities in relation to the investigation and prosecution of illegal gambling) and the police, will also monitor compliance. There are no new offences or sanctions created by these proposals, as the arrangements for cancellation or forfeiture of a permit, including associated rights of appeal, are set out in Schedule 12 to the Act. Similar considerations will apply to pubs and other alcohol-licensed premises, with the onus on individual licensees to ensure that any gaming conducted on the premises remains within the law. Local authorities will have the principal responsibility for monitoring compliance, in parallel with their broader responsibilities for alcohol-licensed premises under the Licensing Act 2003. In Scotland, local licensing boards will exercise those responsibilities. Section 284 of the Gambling Act provides for the removal of gaming exemptions and entitlements in certain circumstances, together with associated rights of appeal.

## Sections 9-12

Sections 9-12 should be completed after consultation and included in the full RIA.

1. Implementation and delivery plan
2. Post-implementation review
3. Summary and recommendation

### Summary costs and benefits table

Option	Total benefit per annum: economic, environmental, social	Total cost per annum: - economic, environmental, social - policy and administrative
1		
2		
3		
4		

## 4. Declaration and publication

*I have read the regulatory impact assessment and I am satisfied that the benefits justify the costs*

Signed .....

Date

Minister's name, title, department

Contact point for enquiries and comments: name, address, telephone number and email address.