



# Draft Gambling Bill

The Policy

November 2003



DEPARTMENT FOR CULTURE, MEDIA AND SPORT

# DRAFT GAMBLING BILL

## The Policy

*Presented to Parliament by the  
Secretary of State for Culture, Media and Sport  
by Command of Her Majesty  
November 2003*

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## Contents

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Foreword from the Secretary of State		2
Chapter 1	Summary of proposals	5
Chapter 2	The need to modernise	11
Chapter 3	The new system of regulation	13
Chapter 4	Controlling the evolution of gambling opportunities	27
Chapter 5	The impact of change on the high street	41
Chapter 6	Protecting consumers, children and the vulnerable	45
Chapter 7	Transition to the new arrangements	53
Chapter 8	Consultation and pre-legislative scrutiny	55
Annex	Changes to the National Lottery	57

## Foreword from the Secretary of State

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Our gambling laws need reform.

Attitudes to gambling have changed. When the existing law was passed in the 1960s gambling was seen as an activity that ought to be permitted only to the extent that satisfied unstimulated demand. Today, almost three quarters of the adult population participate in gambling of one kind or another. Most people regard it as an enjoyable and predominantly harmless leisure activity.

Nor has the legislation kept pace with rapid technological change. For example, people playing on Internet casinos today are completely unprotected by British regulation.

The law needs to be brought up to date, and in reforming it we must make sure that it is flexible enough to cope with further change.

Reform will build on the excellent record of British regulators in keeping criminal influences out of gambling. The new law will have even stronger powers to keep out crime and our new independent regulator will not hesitate to use them in the public interest. We will take no chances with crime.

Modernising the law does not mean a gambling free for all. The provisions in the draft Bill combine a managed relaxation of outdated restrictions with the strongest protections for children and the vulnerable. Following reform, there will be greater choice for adult gamblers. But there will remain important limitations on what types of gambling are available and where they can be located. Gambling machines will not invade normal social spaces.

We have prepared proposals for reform following the widest possible consultations, and now feel confident that what we publish is a sensible reform package in the public interest that addresses the long terms needs of consumers and industry alike.


- We will simplify regulation by establishing a single regulator for commercial gambling. The Gambling Commission will have wider functions, greater flexibility to act and stronger enforcement powers than the Gaming Board that it will replace. Local authorities will license all types of gambling premises, to ensure that local people have a say in where gambling outlets are sited.
- We will keep crime out of gambling and protect the industry's reputation for excellence and integrity. The Gambling Commission will be a strong, effective regulator and will root out illegal gambling; its staff will have statutory powers of entry, search and seizure.
- We will remove unnecessary restrictions on the ability of business to meet consumers' wishes. The rule allowing casinos to be established only in designated parts of the country will be abolished, as will the rule requiring membership of a casino or bingo club at least 24 hours before playing. Unlimited prize gaming machines will be permitted, but only in casinos – and their numbers will be

limited in smaller premises. Remote gambling, for example on the Internet, interactive TV and through mobile telephones, will be licensed and regulated effectively for the first time in Great Britain.

- We will strengthen safeguards protecting children and the vulnerable. Gambling and children do not mix – the current minimum age limits for access to gambling products will be retained and enforced. The draft Bill also includes reserve powers for a statutory levy on gambling operators to contribute to a charitable trust funding research, prevention and treatment programmes for problem gambling. The Gambling Commission will monitor the social impact of gambling, advising the Government on the scope for further liberalisation, or the need for tougher controls.

So I am publishing a draft Bill for pre-legislative scrutiny by Parliament and for further public consultation. The draft Bill that I publish today encompasses all the key elements of the new regulatory regime. I will publish the remaining clauses early in 2004, although this document describes the full breadth of our policy in order to inform discussion.

I hope that the draft Bill will spark a constructive and fruitful debate about the purposes and balance of our gambling laws. I believe that the time is now right for reform and I look forward to that debate.

Handwritten signature of Tessa Jowell in black ink.

TESSA JOWELL



## Chapter 1: Summary of proposals

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### A single Gambling Act

- All gambling legislation (except that on the National Lottery) will be consolidated into a single, comprehensive Act of Parliament. The Betting, Gaming and Lotteries Act 1963, the Gaming Act 1968 and the Lotteries and Amusements Act 1976 will be repealed. The new Gambling Act will cover all of Great Britain (and where it amends the National Lottery Acts and on chain gifting, Northern Ireland too).
- The draft Bill does not yet include provision for arrangements in Scotland, or the powers of the Scottish Ministers. The Government will publish provisions on this as soon as possible.

### A new regulator

- A new national regulator, the Gambling Commission, will regulate commercial gambling.
- The Commission will replace the Gaming Board, and will be a non-departmental public body.
- The Commissioners will be appointed by the Secretary of State, but in the exercise of their functions will be independent of the Government.

### Licensing objectives

- The Commission will exercise its functions under the Act in pursuit of its licensing objectives. These are:
  - Preventing gambling from being a source of crime, being associated with crime 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.

### Licensing gambling

- The Commission will issue operating licences for commercial gambling. It will also issue personal licences to individuals performing specified functions.
- It will license betting, bingo, casinos, adult gaming centre operators, gaming machine manufacturers and suppliers, certain lottery operators and managers, pools promoters and those offering gambling products through remote technologies like the Internet.
- It will not license the National Lottery.

### Ensuring high standards

- The Commission will assess the integrity, financial standing and competence of applicants before granting an operating licence.

- It will have access to criminal records and relevant information held by other statutory bodies; it will also co-operate with foreign gambling regulators.
- The Commission will have power to attach conditions to licences. It will also issue codes of practice that may explain ways in which conditions might be satisfied.
- It will monitor compliance with licence conditions and will have powers to review, amend and revoke licences. It will also have powers to impose unlimited financial penalties on licensees.
- There will be a full right of appeal against Gambling Commission decisions.

### **Keeping gambling crime free**

- The Commission will enforce the law on gambling.
- It will investigate offences under the Act and will have powers of entry, seizure and search to assist these investigations. Commission staff will also have power to use reasonable force.
- The Commission will have power to initiate public prosecutions, with direct access to the Crown Prosecution Service.
- The Bill proposes a modernised set of gambling offences, including a revised offence of cheating.
- The statutory bar on enforcing gambling debts will be removed.

### **Licensing gambling premises**

- Local licensing authorities will license gambling premises. They too will be required to pursue the three licensing objectives.
- The Gambling Commission will issue guidance to local authorities on the exercise of their powers under the Act. Authorities will be required to have regard to this guidance.
- The Secretary of State will set premises licence fees. The Scottish Executive will set fees in Scotland.
- There will be provision for temporary use notices, to allow gambling to take place for limited periods in otherwise unlicensed premises.

### **Where gambling can take place**

- Regional Planning Bodies (in England and Wales) will plan for leisure developments of regional significance, including the largest casinos, to identify suitable locations with their region that would maximise their contribution to tourism and economic development.
- Licensed operators will also be able to apply to locate gambling premises in any licensing authority area. They will no longer have to prove unmet demand in their chosen location, or ensure that it is within a permitted area designated in secondary legislation.

## Protecting children and the vulnerable

- Operating licence conditions will require operators to make gambling products available in a manner that is socially responsible. The Gambling Commission will issue codes of practice on social responsibility describing ways in which operators may ensure such provision.
- Prohibitions on the advertising of lawful gambling will be lifted, but all advertising will be subject to new rules protecting children and the vulnerable.
- No under 18s will be permitted to gamble, except on the National Lottery and football pools (where the minimum age will be 16) and gaming machines with the lowest stakes (where there is no minimum age specified).
- No under 18s will be permitted to enter gambling premises, except in relation to betting tracks, bingo premises, alcohol licensed premises and family entertainment centres.
- Some employment of under 18s in gambling premises will be permitted, but no one under 18 will be allowed to take any part in the conduct of gambling, except in relation to the sale of lottery tickets and football pools coupons.
- It is to be a criminal offence for an adult to gamble with a child or young person, allow them access to over 18 gambling premises or to employ children in a way contrary to the provisions of the Act.
- The Bill includes reserve powers for a statutory levy on gambling operators to contribute to a charitable trust funding research, prevention and treatment programmes for problem gambling. These powers will be used if the gambling industry does not contribute sufficient funds to its own charitable trust.

## The new regime

### *Casinos*

- Casinos will be permitted to allow access to the public, and will no longer be required to be private clubs with a statutory interval between membership and play.
- Casinos will be allowed to apply to offer any kind of legal gambling, including betting and bingo.
- Casinos will be permitted to provide unlimited prize gaming machines. These machines may be linked within individual premises (to allow for larger pooled prizes) but not between premises. Casinos will not be permitted to provide only gaming machines.
- No new casino will be licensed with a table gaming area smaller than 5,000 sq ft. Casinos with a table gaming area of over 10,000 sq ft will be in a separate licensing category.
- Casinos in the small category (5,000-10,000 sq ft of table games) will be permitted no more than three gaming machines for each table game. There will be no limit on the number of gaming machines permitted in larger casinos, as long as more than 40 table games are also provided.

*Gaming machines*

- There will be a new licensing framework for gaming machines – most categories of gaming machines will be for adults only, and confined to places where access can be controlled effectively. Children will only be permitted to use amusement machines with the lowest stakes and prizes.
- Betting offices, bingo premises and betting tracks will be permitted to house a limited number of 'category B' gaming machines (with prizes up to £500).

*Betting*

- Betting tracks will be permitted to offer betting on non-race days, although they may not admit under 18s to betting areas on such occasions. The prohibition on racing on Christmas Day and Good Friday will be lifted.
- For a period of five years, betting operators should continue to pay no more than five times the public admission price to operate in the area of horse racecourses and greyhound tracks previously designated as the betting area. Other areas of the betting track will be subject to commercial arrangements from the outset.
- Betting exchanges will be licensed as betting intermediaries. There will be no requirement for the users of betting exchanges to be licensed.

*Remote gambling*

- Remote gaming (e.g. on the Internet, interactive TV and mobile phones) will be licensed in Great Britain for the first time.

*Bingo*

- Bingo premises, like casinos, will no longer have to operate as members' clubs.
- The Bill removes limits on prizes for linked or multiple bingo, and permits the holder of a standard operating licence for bingo to offer such games. Bingo premises and casinos licensed to provide bingo will be permitted to provide bingo 'rollovers'.
- Pubs and clubs will continue to be permitted to provide bingo. An operating licence will be required where bingo games have stakes or prizes worth more than £1,000 over a period of seven days.

*Lotteries and prize competitions*

- The Bill preserves the non-commercial status of lotteries. For the first time, there will be a statutory definition of a lottery.
- The Bill will allow for a new category of lawful lottery that will permit the occupier of any business premises to promote a lottery for the benefit of customers.
- Lotteries run by societies and local authorities will be permitted to operate 'rollovers'.

- The Bill will prohibit chain-gifting schemes.
- The law on prize competitions will be updated.

### **The National Lottery**

- The National Lottery Commission will continue to license the National Lottery. It will encourage competition by having the ability to offer a range of licences to run different parts of the Lottery and move away from a single major licence competition every seven years.



## Chapter 2: The need to modernise

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- 2.1 The gambling scene in Great Britain is very diverse. There is a long tradition of fixed odds betting, centred on horse racing but now extending to a wide range of sporting and other events. We have casinos, commercial bingo clubs, machine arcades, lotteries and the National Lottery. Below the threshold of commercially organised gambling there is a wide range of what might be called social gambling, including simple low stake gambling in pubs and clubs.
- 2.2 In its different forms, gambling has been prohibited or regulated for hundreds of years. Some types, such as cash betting on the high street, have only been legal for a number of decades. Others, like local authority lotteries, have been a feature of the law over centuries.

### Changes since the 1960s

- 2.3 Most of the laws regulating gambling today date from the 1960s. These laws, quite understandably and correctly, reflect the view of Parliament and society at that time. In broad terms, gambling was then seen as an undesirable pursuit. Recent experience had been of considerable infiltration of gambling by criminal elements. Parliament concluded that gambling ought to be tolerated, for fear of driving it underground, but that its offerings should be restricted severely and it should not be able to conduct its business as a normal leisure activity.
- 2.4 The legislation passed then has done its job well. Great Britain has a well-established reputation for integrity in its gambling industry. The Gaming Board has combated threats that have arisen from time to time. High street betting offices are a well-established feature of towns and cities.
- 2.5 Over recent years, however, the law has come under increasing strain. In part this is due to a shift in public attitudes toward gambling. About two out of three people play the National Lottery regularly. More people have become more willing to see gambling as part of the mainstream of leisure activity, whereas the law treats it as something to be, at best, grudgingly tolerated. Some of the key elements of the current system of regulation have come to be seen as imposing unnecessary restrictions on the ability of business to meet consumers' wishes.
- 2.6 Another driver for change is technology. Gambling legislation was prepared before technology had transformed the way in which information can be processed, visually represented and communicated. One consequence has been that, while people in Great Britain can lawfully go on to the Internet to use gaming sites based abroad, there is no provision for British operators to provide well-regulated alternatives. Another is that betting has been able to take new forms and new media for which the law currently provides inadequate regulation in terms of fairness for participants and protection for the vulnerable.
- 2.7 The Government is also alive to the limitations in the present legislation that have prevented the gambling industry from playing a more substantial role in the continuing development of areas of the country that have traditionally sought to offer themselves to tourists as an exciting holiday destination. Representatives from different areas have expressed the view that gambling developments, in particular what are known as 'resort casinos' – large casinos forming part of a

bigger leisure and hotel facility – could play a role in the economic development of their areas. The law at present make such developments unfeasible. In proposing modernisation of the law, the Government wants to make it possible for different parts of the country to consider how gambling developments might play a role in securing economic benefits for their area. In this way, reform of the law on gambling can make a significant contribution to continued economic stability and regeneration.

- 2.8 Other problems with the present law have become increasingly pressing. It is inflexible, in the sense that much of the regulatory detail is set out in primary legislation, and cannot be readily modified to respond to developments in what is a highly innovative and fast-moving industry. In addition, while it has set out minimum ages for participation in gambling, the law has not incorporated any kind of systematic protection for the vulnerable or provision to ensure that all business providing gambling apply high standards of social responsibility.

### **The Gambling Review Body**

- 2.9 Against this background, the Government decided in 1999 to appoint an independent committee, chaired by Sir Alan Budd, to review gambling law and regulation. The committee reported in 2001. It made 176 recommendations. Following public consultation on the report the Government published a White Paper in March 2002 (“A Safe Bet for Success”) setting out its conclusions and confirming its intention to implement the great majority of the recommendations. It has already taken action on those that do not require primary legislation and which can be taken forward without upsetting the balance of regulation or distorting competition.

### **Aims of reform**

- 2.10 The Government therefore believes that the time is now right for a comprehensive modernisation of the law on gambling. The aim of the draft Bill is to update Britain’s gambling laws and to provide a new, effective and flexible balance of regulation. It reflects the Government’s belief that gambling should be seen as part of the mainstream leisure industry, offering fun and attractive products in a regulated environment.
- 2.11 The draft Bill is intended to sweep away restrictions that are no longer needed, or reflect assumptions about the way in which gambling has to take place that are no longer valid.
- 2.12 The Bill is not, however, merely an exercise in consolidation or removing redundant terminology. Nor does the Bill allow for an uncontrolled expansion in the quantity or intensity of gambling products available to the public. There remain strong reasons of public policy to restrict the types of gambling available to the public. Some may present such innate risks that not even the most rigorous licensing or regulation cannot act to give the consumer effective protection. The Bill therefore proposes continuing restrictions on some products and new prohibitions on products that have developed more recently and present severe risks to the consumer. Through this, and other measures, the Bill will strengthen safeguards that are lacking in the present regime.
- 2.13 The Bill will put in place a regulatory framework that will meet the needs of consumers, operators and the broader public interest.

## Chapter 3: The new system of regulation

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### The Gambling Commission

- 3.1 The draft Bill provides for the creation of a single regulatory authority for gambling – the Gambling Commission.
- 3.2 The Commission will have a variety of functions, described below. But in all of its activities the new Commission will be guided by its three licensing objectives, set out in clause 1 of the draft Bill:
- To prevent gambling from being a source of crime and disorder;
  - To ensure that gambling is conducted in a fair and open way; and
  - To protect children and other vulnerable persons from being harmed or exploited by gambling.
- 3.3 These objectives are central to the scheme of regulation. They explain what regulation is for. But they are designed too to ensure that the Commission cannot act in an arbitrary fashion. In pursuing its functions, the Commission must be able to explain to licensees and the public how its actions seek to achieve these three objectives. In this way they act both as a means to ensure accountability, and a certain basis for the exercise of significant powers.

### Functions of the Commission

- 3.4 The Commission will have an overall remit to regulate gambling. It will take over the licensing and regulatory responsibilities of the Gaming Board for Great Britain (GBGB) in relation to casinos, bingo and certain types of lotteries. It will also take over from the GBGB the responsibility for regulating the sale, supply and maintenance of gaming machines, and will have additional responsibilities in relation to their manufacture.
- 3.5 In addition, the Commission will assume responsibility for:
- Betting operators; and
  - Pools promoters.
- 3.6 The Commission will, for the first time, license and regulate gaming by means of remote technology. The Commission will issue licences for Internet gambling and all other forms of remote gambling, including interactive television and mobile telephony.
- 3.7 Following the implementation of proposals in the draft Bill, any operator considering a new business will therefore be able to seek permission from the Commission for licences to provide facilities for the full range of commercial gambling activities. Where granted, operating licences will be subject to compliance with the conditions of the licence and the payment of an annual continuation fee. Application fees and annual renewal fees will be set by the Secretary of State in secondary legislation, and will vary according to the type of gambling conducted pursuant to the licence.

- 3.8 Certain gambling activities, such as permits for lower stake gaming machines, will continue to be regulated entirely by local authorities. Other activities, such as gaming or lotteries at a bazaar or fete, are considered to be of minimal risk to the public and therefore will not require specific regulatory measures.
- 3.9 The licensing and regulation of the National Lottery will remain the responsibility of the National Lottery Commission (NLC). The regulation of the National Lottery was considered in a DCMS decision document issued earlier this year<sup>1</sup>. It concluded that because of its responsibility for returns to good causes the National Lottery should continue to be regulated separately. The document also set out the Government's proposals to strengthen the NLC and for changes to the licensing of the National Lottery. These changes are explained at the annex. Clauses on these changes will be published as soon as possible.

### **Status and structure of the Commission**

- 3.10 The Gambling Commission will operate at arms-length from Government and as far as possible will be self-funding. It will be established as a non-Departmental Public Body (NDPB). The Chair and members of the Commission are to be appointed by the Secretary of State for fixed periods to be determined by her (subject to a maximum term of five years), with scope for reappointment. To ensure that the Commission has flexibility to deal with the full range of its responsibilities there will be no prescribed limit on the number of members.

### **Operating licences**

- 3.11 Operating licences issued by the Commission will be the main form of permission for commercial gambling. The draft Bill provides for a range of operating licences. The way in which activities are categorised does constrain operators from combining certain products and offering them together in the same place. In this, the long-standing legal distinction between gaming, betting and lotteries is maintained.
- 3.12 It is worth noting that the Government gave careful thought to the possibility of moving to a different regulatory structure. This thought was prompted by observations that the definition of the three categories of gambling – betting, gaming and lotteries – had caused much legal argument over the years; that technological developments had tended to erode distinctions which had previously been reasonably stable; and that, across the wider leisure industry, traditional distinctions between types of premises had also started to break down, with a greater emphasis on providing a mixture of services and entertainments in one place.
- 3.13 An alternative basis for regulation would have involved distinguishing gambling activities not by type but solely by degree of risk to participants and the maintenance of law and order, so that, for example, premises offering high-risk gambling (defined by reference to such factors as, for example, level of stake, rapidity of play, opportunities to drink while gambling or scope for manipulation of the outcome by the operator) would be subject to tighter regulatory controls than lower risk activities. On this approach companies would be able to provide any kind of gambling within their licensed risk category, according to their commercial judgment.

<sup>1</sup>"National Lottery Licensing and Regulation: decision document" DCMS, July 2003.

- 3.14 The Government concluded, however, that such a radical approach was not feasible, bearing in mind that it was dealing with a well-established industry, which had built itself round the current system of law and regulation. The Bill is nevertheless intended to reflect the view that some kinds of gambling, depending on how and where they are organised, present higher risks to individual participants and to the public as a whole than others; and that it is important for the public to know, when they see different kinds of premises where gambling is available, what they may expect if they decide to go in and start spending.
- 3.15 The draft Bill is designed to meet the need for flexibility by enabling companies to obtain additional licences. So while, for example, a company licensed to provide commercial bingo will be authorised under that licence to provide bingo and not betting, there is nothing in the draft Bill to prevent it from applying for a betting operating licence also. A betting operator wishing to provide bingo would be in the same position. The draft Bill provides, however, that in general different types of commercial gambling may not be mixed on the same premises – the main exception to this is casinos where the ability to offer every type of gambling is what is to distinguish it from other kinds of gambling premises. Betting tracks will also be permitted to apply for additional premises licences on their grounds (but here the activities may not be mixed, as they are in casinos).

### **Categories of operating licence**

- 3.16 The draft Bill provides for operating licences to:
- Operate a casino;
  - Operate bingo;
  - Provide betting;
  - Provide betting services as a betting intermediary;
  - Operate pools betting;
  - Operate a society lottery or a local authority lottery (including a related management function);
  - Provide each of the gambling activities above by remote means;
  - Manufacture, sell, supply, install maintain or repair gaming machines, and;
  - Make gaming machines available for use by the public.
- 3.17 These descriptions are designed to enable gambling businesses to introduce new products and services without the need for amendment to primary legislation, as is often the case at present. Importantly, the draft Bill also gives the Government power to amend these categories by secondary legislation; so that it can take account of changes to the industry or technology to propose amendments to the categories. One of the problems of the current legislation is that new products (like, for example, internet betting exchanges) have emerged and the law has not been sufficiently flexible to accommodate their licensing requirements.
- 3.18 Licences will be issued for up to a maximum of ten years duration, although the Commission may determine different lesser periods.

### **Flexibility – licence conditions and codes of practice**

- 3.19 Flexibility will be one of the key characteristics of the new regime. Much of the detail of existing gambling regulation is set out in primary legislation. There will, of course, be a need to set out the essential regulatory structures in the Bill. But, experience has taught us that the evolution of technology and innovation can easily outpace Parliament's capacity to bring about further reform.
- 3.20 The draft Bill is therefore very precise in describing the purposes of gambling regulation. It also delineates clearly the powers of the Commission and the rights of individuals. But within such limits, the draft Bill provides flexibility to cope with changing circumstances. Many of the details of entitlements attaching to operating licences will be alterable through secondary legislation, if the need for such amendment arises. The Commission may also use licence conditions and codes of practice to react to changing regulatory risks.
- 3.21 Where an operating licence is granted, it will be issued subject to conditions. The Commission and the Secretary of State may set conditions. The Commission may set general and individual conditions. General conditions apply to all operating licences or all holders of one type of operating licence. Individual conditions are those that apply to a particular licence holder. The Secretary of State may also specify conditions on operating licences (or those in a particular category) but she may not place conditions on individual licences.
- 3.22 Conditions may concern the nature of the licensed activities, the circumstances in which the licensed activities are carried on, or the nature or the circumstances of the licensee or of another person involved in the conduct of the licensed activities. A condition could limit the scope of gambling that an operator may conduct by, for example, reference to the number of places that the operator can provide gambling. They might also concern the type of facilities provided at each place, the number of staff employed or the financial resources available for the gambling operation.
- 3.23 Codes of practice will also be a central feature of the new framework. Codes are not, of course, in themselves a new feature of gambling regulation. The industry has long since developed such codes voluntarily, working with the Government, the GBGB and other regulators to improve their approach to a variety of issues. The draft Bill will bring this approach within the regulatory framework. While the Commission will no doubt wish to look afresh at each issue, the work already done in a number of areas will inform its views.
- 3.24 An example illustrates how licence conditions and codes of practice are to interact under the new arrangements. One condition attaching to a general betting operating licence may well be that betting rules should be made available to the consumer before s/he places a bet. The condition on the licence therefore describes one requirement for how facilities for gambling are to be provided. The Commission might then issue a code of practice on the display and dissemination of betting rules. The code would describe a number of ways in which licensees could effectively make rules available to their customers. It would be open to a licensee to fulfil the licence condition by a method not described in the code. But if they did not take sufficiently effective action then their failure to observe the recommendations of the code of practice may be

taken into account by the Commission in its assessment of the licensee's compliance with his licence conditions.

- 3.25 Some licence conditions may be sufficiently precise so as not to require a corollary code of practice. Others may be prohibitive in nature. It will be a matter for the Commission's discretion whether to issue codes of practice. Before issuing a code, the Commission will be required to consult with a range of interests. The Commission will be required to consult the Secretary of State, relevant parts of the gambling industry and organisations concerned with problem gambling. And, where relevant, the Commission will also consult local authorities, Chief Officers of Police, other parts of the gambling industry and members of the public.

### **Licence fees**

- 3.26 The Commission will seek to recover through licence fees the full costs of its operation and administration. The amounts to be recouped by the Commission will be the costs of its activities: there will be no element of profit or surplus. Fees will be set in a way that avoids cross-subsidisation between sectors but also takes account of the breadth of work necessary for the Commission to pursue its licensing objectives. As well as application fees, there will be an annual continuation fee for every licence.
- 3.27 The Secretary of State will set licence fees following advice from the Commission. Work is presently underway to determine the likely levels of fees. In line with the approach adopted by similar regulators, the Government would expect the Commission's fees proposals for the different types of licensed activities (or combinations of activities) to take account of the work required to meet the statutory objectives. The Commission's fee structure will therefore take account of regulatory risk. It is also likely to take into account the scale of the gambling activities. Small businesses could therefore expect, in most circumstances, to pay less than larger businesses.

### **Services provided to licensees**

- 3.28 Licence fees and annual continuation fees will represent payment for services provided by the Commission. In this, the proposed operation of the Commission can be sub-divided into three main areas of responsibility:
- Issuing operating and personal licences and other permissions needed to organise or work in a regulated gambling business, including appeals mechanisms;
  - Monitoring of licensed operators and operations; and
  - Enforcement action against licensed operators and personnel in breach of regulations or licence conditions or against those operating illegal gambling.
- 3.29 Each of these services is explained below.

### **Licensing – keeping crime out permanently**

- 3.30 The draft Bill provides the Gambling Commission with extensive powers to ensure that only suitable and competent persons offer facilities for gambling to the public.

- 3.31 The Commission will publish a policy statement setting out the principles it will apply in exercising its licensing and regulatory functions. In preparing that policy, the Commission must first consult a range of interests – including the Secretary of State, local authorities, chief officers of police, the gambling industry, organisations concerned with problem gambling, and, as appropriate, members of the public. This consultation will allow for full and inclusive discussion before the Commission’s licensing policy is settled. The statement will be reviewed and revised periodically.
- 3.32 The Commission will have powers to undertake wide ranging and detailed enquiries as are necessary to confirm applicants’ suitability, competence and financial circumstances. It will be able to investigate applicants through interviews, references and by requiring the production of criminal records certificates. It will also be able to receive information through statutory information gateways with law enforcement agencies and other regulatory bodies. No person will be granted an operating or personal licence until s/he has passed this most rigorous assessment.
- 3.33 In deciding on an application, the Commission may grant a licence, reject it or grant it only in respect of certain of types of gambling activities. It will make such decisions having regard to the evidence gathered and the licensing objectives. The Commission may refuse an application if the applicant has a conviction for any offence, and will pay particular attention to the relevant offences set out in a schedule to the draft Bill.

### **Monitoring licensees**

- 3.34 The Commission will monitor and inspect licensed gambling operations, ensuring their compliance with licence conditions and the law. It will ensure that no operator exceeds the limits placed on its operations by the terms of their licence.
- 3.35 The Commission will have powers to review any aspect of the provision of gambling by a licence holder. It may carry out a review not only as part of its ongoing monitoring activities but also if it has reason to suspect that activities have not been carried out in accordance with the licence, if a licensee has received a conviction for a relevant offence, or if the Commission suspects that the licensee is no longer suitable to carry on licensed gambling activities. Such reviews may result in adjustment to the scope of a licence or the attachment of new conditions. In addition, the Commission may also review the performance of a category of licensees, to assess their general compliance with licence conditions and whether general conditions remain sufficient to achieve the licensing objectives. Operators may also apply for a variation to their licence to expand the activities authorised under the licence or remove conditions on the licence.
- 3.36 The Commission’s staff will conduct monitoring of licensees. In addition, designated members of staff are to have specific, additional powers to enter gambling and other premises, to search those premises and seize materials they believe relevant to the breach of a licence or an offence under the legislation. Gambling Commission staff will also have power, where necessary, to use reasonable force in pursuit of their enforcement functions. Commission staff will have more extensive, freestanding powers than those exercised at present by the

Gaming Board, and the powers will apply to a greater range of gambling activities. Licensing authority officers will have comparable powers.

### **Enforcement action – sanctions and offences**

- 3.37 The work of the Gambling Commission will help ensure the gambling industry's reputation for excellence and integrity is preserved and enhanced. The Commission will be the public body with the primary responsibility to root out and take action against illegal gambling. It will investigate alleged illegal gambling activities, whether conducted by unlicensed parties or by licensed parties (i.e. those offering gambling of a type not covered by their licences). Importantly, the Gambling Commission will also have powers (not available to the Gaming Board at present) to initiate public prosecutions. This new power will allow the Commission to vigorously tackle gambling offences without having to make demands on police resources. Of course, where there are serious offences or links to other criminal activities, the Commission will alert the police and cooperate fully with their operations.
- 3.38 Where licensees are believed to have committed offences, or are in breach of their licence terms, the Commission will have a range of enforcement powers. In addition to beginning criminal proceedings in relation to offences, the Commission will also have available regulatory powers. Where an operator has breached a licence condition or has been convicted of an offence and the Commission is satisfied that the facts are such that the matter warrants the imposition of a sanction (having held appropriate hearings), it may:
- Give the holder of the licence a formal warning;
  - Vary the licence conditions or attach an additional condition to the licence;
  - Impose a financial penalty of any amount to be decided by the Commission; and
  - Revoke the licence.
- 3.39 The Commission may revoke a licence following a review if it thinks that a gambling activity is being carried on in a way that is inconsistent with the licensing objectives, a licence condition has been breached, if the licence holder has failed to comply with regulations or the review, or is otherwise unsuitable to carry on the provision of gambling. The Commission may also revoke a licence if the annual continuation fee has not been paid and the failure to pay is not due to an administrative error.
- 3.40 The Commission may also impose a financial penalty on a holder of an operating licence if it considers that a licence condition has been breached. Before imposing the penalty, the Commission must notify the licence holder of the amount of the penalty and the reasons for imposing the penalty. The Commission will impose penalties based on a statement of principles to be applied in exercising its powers and will return the proceeds of such penalties to the Government after deduction of a sum representing the direct costs of the Commission.
- 3.41 The possibility of such penalties is designed to provide a strong incentive for gambling businesses to manage their operations properly. Accordingly, the draft Bill sets no limit on the amount of financial penalty that can be imposed. This

provision is in line with that used by other regulators, such as the Financial Services Authority that in particularly serious circumstances has imposed financial penalties in excess of a million pounds on organisations.

- 3.42 In pursuing its enforcement responsibilities the Commission will co-operate and exchange information with law enforcement authorities, other regulators (including the Financial Services Authority and the National Lottery Commission), and overseas authorities in connection with areas of common interest and the conduct of licensed operators and individuals. Provisions on statutory information 'gateways' and on the Commission's powers to initiate public prosecutions will be published as soon as possible.

### **Offences**

- 3.43 The draft Bill will make it a criminal offence to provide facilities for gambling without an authorisation under the Bill. This general provision is supplemented by a number of specific offences including those related to under age gambling designed to ensure that persons below certain age limits (usually eighteen years of age) do not partake in gambling.
- 3.44 The draft Bill also encompasses a number of specific lottery offences. In addition to the general offence of offering a lottery without authorisation, the Bill includes an offence of using any part of the profits of a lottery for a purpose other than that stated. This applies to small incidental lotteries, private lotteries, customer lotteries and small society lotteries.

### **Personal licences**

- 3.45 The new regime for licences for specified persons involved with gambling operations will build on the present certificate of approval system overseen by the Gaming Board. However, that system is based on the personal licensing of very specific groups of employees, such as croupiers in casinos, who are clearly identifiable. In preparing proposals for a new system of personal licensing, the Government has been conscious of the diversity of operations in different parts of the gambling industry. Attempting to license named positions in the Bill would be an overly cumbersome task. Additionally, putting such licence categories in legislation would also run the risk of their becoming obsolete in a relatively short time, as the industry evolved in response to new opportunities. A more flexible regime for personal licensing is necessary.

### **Who will need a personal licence?**

- 3.46 The draft Bill focuses on the functions performed by individuals. The Commission will identify posts or persons in an operating licensee's business that will need to be performed by the holder of a personal licence. Requirements for personal licensing will be incorporated into conditions of the relevant operating licence.
- 3.47 The functions fall into two broad categories: management and operational. Management functions will include particular legally defined roles – such as directors and partners of a company. It will be for the Commission to decide which specific directors or partners need to be licensed. They will also include roles commonly filled by compliance officers and the managers or supervisors of persons handling significant flows of money. Operational functions will include posts where the individual has the ability to influence the outcome of gambling.

A person responsible for creating programme 'codes' used in Internet gambling might also require a personal licence.

3.48 It is not intended that the Commission's power to specify such posts will be unlimited. It will only be able to require that the holder of a post have a personal licence if that post comes within the categories set out below:

- The director of a company which holds an operating licence;
- A partner in any partnership which holds an operating licence;
- The officers of a club which holds an operating licence (e.g. an additional bingo licence);
- Anyone who performs a managerial role in relation to gambling staff;
- Anyone who can influence the outcome of gambling;
- Anyone who is responsible for the handling of money in connection with gambling;
- Anyone who monitors compliance with the operating licence; and
- Any person engaged in the manufacture, supply, sale, installation, maintenance or repair of gaming machines.

3.49 To avoid excessive regulatory burdens on business, the draft Bill provides the Secretary of State with power to prescribe by secondary legislation that certain small gambling operations will not require personal licences. The Secretary of State will define eligible operations in regulations.

3.50 The Commission will outline its approach to personal licensing in its statement of licensing and regulation policy, but will be able to come to a view about the level of personal licensing appropriate to the level of risk in each operation. Personal licences will be issued for a period of up to ten years but no annual continuation fee will be required.

3.51 It will be vital therefore that the Commission has a sufficient understanding of each business and operation that it is involved with so that it can properly identify those roles that require personal licensing. It will be in the interests of the Commission and those it is regulating to adopt a collaborative approach to this process.

### **Advice to the Government**

3.52 One of the Gambling Commission's key functions will be to provide advice to the Government on the success and social impact of reforming the law on gambling and, in particular, on the incidence of problem gambling. The Government views this proposal as a key element of its reforms.

3.53 The draft Bill allows adults some additional opportunities to gamble. Gambling operators will of course want to take advantage of the degree of liberalisation offered by the Bill, and there will very likely be an expansion of facilities available in different parts of Great Britain. But the relaxations proposed are definitely not a 'free for all' – as they have sometimes been described. There will be important limitations – for example, there will be no expansion of the gambling permanently available in normal social spaces, like hotels, pubs and restaurants. Unlimited prize gaming machines will be permitted only in casinos, and nowhere else.

- 3.54 So the Government will look to the Gambling Commission to provide it with guidance on the most prudent balance between the greater availability of gambling opportunities and a rigorous protection of children and more vulnerable members of society. In this way, the Commission will have a responsibility to measure the social impact of gambling as well as tending to its efficient regulation.

### **Gambling Commission accountability**

- 3.55 The Gambling Commission will be accountable to Parliament. Its decisions will carry a right of appeal to a tribunal and, where appropriate, to the courts.
- 3.56 The draft clauses provide that after the end of each financial year the Commission will send a report of its activities to the Secretary of State. The Secretary of State will lay a copy before Parliament. Parliament will, in Committee, be able to examine the Commission on the activities contained in the annual report and the Comptroller and Auditor General's report on the Commission's accounts.
- 3.57 In addition to being accountable to Parliament, the Commission's decisions will carry a right of appeal to an independent tribunal (the Gambling Appeals Tribunal) and, where appropriate, to the courts. The draft Bill therefore provides for appeals by operators and personnel against decisions made by the Gambling Commission in exercise of its various licensing and enforcement functions. This appeals mechanism is part of the provisions that ensure gambling regulation complies fully with human rights legislation.
- 3.58 The jurisdiction of the tribunal will include decisions made by the Commission in relation to licensed operators or holders of personal licences. In the first instance the Commission will have in place a system whereby it could review its own decisions. In the event that the Commission decided to uphold its original decision, the appellants would be able to appeal to the Gambling Appeals Tribunal.
- 3.59 The draft Bill provides for the establishment of a single tribunal with jurisdiction for the whole of Great Britain, with representatives from Scotland on the panel for Scottish appeals. The tribunal will have a legally qualified President and a panel of legally qualified chairmen, one of whom may be appointed as Deputy President. There will be full right of appeal against Commission decisions through the Tribunal.
- 3.60 The draft Bill identifies a number of decisions, in relation to personal and operating licences that will be within the jurisdiction of the Tribunal. These include those by an applicant for a licence against a decision not to grant a licence, to grant a licence subject to conditions or where the applicant has had an application for variation refused. The holders of licences may also appeal against Commission decisions following a review.
- 3.61 There will also be full rights of appeal against the decisions of local authorities on premises licences.

## Involving communities

### Licensing gambling premises – the role of local authorities

- 3.62 The Government thinks it important that local authorities and the communities they represent should play a leading role in local licensing. The Bill will therefore transfer full responsibility for licensing of premises to local licensing authorities. This is no reflection on the work of the licensing justices. Rather it reflects the Government's view that it is no longer appropriate for the courts to deal with the licensing of leisure premises. Licensing authorities are also best placed to integrate policy on premises licensing with wider community strategies on such matters as crime prevention and planning. In Scotland, local Licensing Boards already undertake licensing of gambling premises.
- 3.63 The new system of alcohol and entertainment licensing in England and Wales (under the Licensing Act 2003) also gives authorities responsibility for licensing premises, and the same committee that considers applications for licences under the Licensing Act will be able to consider gambling applications.
- 3.64 During the consultations before and after the report of the Gambling Review Body, concerns were expressed, primarily by representatives of gambling businesses, about the breadth of discretion that local authorities would have in exercising these new licensing functions. The report of the Gambling Review Body recommended that local authorities have power to institute a blanket ban on all, or particular types of, gambling premises in a specified area. The Government considered this recommendation carefully but, in its response to the Review Body report, rejected it. The Government also believes that it is appropriate to set some limits on the discretion of local authorities in exercising their functions under the Act.

### The new system

- 3.65 The draft Bill proposes that once a gambling business holds a relevant operating licence for gambling it may approach the relevant licensing authority to apply for a premises licence<sup>2</sup>. Licensing authorities will license casinos<sup>3</sup>, betting offices and betting tracks<sup>4</sup> (including horse racecourses and greyhound tracks), bingo premises, adult gaming centres and family entertainment centres (where these contain Category C gaming machines).
- 3.66 Premises licences will not be time limited, but may be subject to review by the licensing authority or following representations by interested parties or a responsible body such as the police. Licence holders will also be able to apply for a variation of their licence and its conditions. Licences may also be transferred to another operating licence holder in possession of an equivalent licence for the same activity. Operating licence holders will also be able to apply to an authority for a provisional statement prior to the construction of new premises (or the purchase of an existing premises), so that the works can proceed with assurance that a full premises licence will be granted if the building conforms substantially to the schedule of works submitted.

<sup>2</sup>Applicants for betting track licences are not required to hold an operating licence prior to application for a premises licence. Occupiers of horserace courses and greyhound tracks may offer pool betting if they hold a pool betting operating licence, but they may not provide fixed odds betting on the events taking place at their track.

<sup>3</sup>There will be 2 categories of casino: Small – where the table gaming area is at least 5,000 sq ft but less than 10,000 sq ft, and; Large – where the table gaming area is 10,000 sq ft or more. Small and large casinos will have different entitlements to house gaming machines.

<sup>4</sup>A premises licence will not be required for a betting track if betting takes place on four or fewer days each year.

- 3.67 In making licensing decisions and exercising their functions, the Bill limits local authorities to consideration of the gambling licensing objectives, guidance from the Commission and its own licensing policy. Like the Commission, local authorities will be required to permit gambling insofar as the licensing authority thinks it reasonably consistent with the pursuit of the licensing objectives.
- 3.68 Local authorities may not re-open consideration of the applicant's suitability to conduct gambling. This is a matter for the Gambling Commission.
- 3.69 The draft Bill sets the core procedures to be followed by local authorities in accepting and considering applications for premises licences, including a requirement on local authorities to publish, every three years and following appropriate consultation, a statement of licensing policy and procedures.
- 3.70 The draft Bill allows for members of the public and other interested parties to make representations about an application. It also specifies the circumstances where councillors must decide upon the grant of a premises licence, rather than delegating the decision to an officer of the council. Such circumstances will include where representations (such as objections by members of the public in that locality) have been made about an application. Regulations made under the Act will set out other procedural details, including requirements on applicants to give notice of their applications to specified bodies and persons.
- 3.71 There will be a route of appeal to the Courts where an applicant – or another local business or resident – disagrees with an authority's decision to grant or refuse a licence or with the conditions on it. Rights of appeal will be available with respect to all licensing authority decisions.
- 3.72 The draft Bill gives the Secretary of State (and, in Scotland, the Scottish Executive) power to set mandatory and standard conditions to be attached to premises licences. Local authorities will be permitted to vary standard but not mandatory conditions. They may also attach conditions on an individual licence specific to local circumstances. Where authorities attach specific conditions (or where they alter standard conditions) their actions must be in pursuit of the licensing objectives and have regard to any guidance issued by the Commission on the exercise of their functions.
- 3.73 The costs of local authorities will be met through application and annual licence fees. These fees will be set and adjusted by the Government in secondary legislation. In Scotland, the Scottish Executive will set these fees. Draft clauses explaining the powers of the Scottish Executive in the new system of regulation will be published as soon as possible.

### **Temporary permitted activities**

- 3.74 The draft Bill also makes provision for the holders of operating licences to serve a licensing authority with a notice informing it of their intention to use unlicensed premises (temporarily) for gambling. Such a notice will be useful, for example, in the event of a poker tournament taking place in a hotel. The notice must be made available to the Gambling Commission, the police and Customs and Excise, all of whom will be able to object to the notice. If there are objections to the notice the licensing authority will usually be required to hold a hearing. If the

authority agrees with the objections, it may serve a counter notice refusing permission for the temporary activities (subject to any appeal). It may also issue a counter notice modifying the terms of the original notice. An individual premise may be 'covered' by a temporary notice for up to 21 days in any 12 month period, but no more.

- 3.75 Temporary notices will not, however, be available for all types of gambling activity. The Secretary of State will make regulations under the Act specifying those activities that may be undertaken under such a notice.

### **Leaving well alone: limits to regulation**

- 3.76 There are a number of examples of social, small-scale gambling where there exists little or no risk to the licensing objectives. In these cases, the draft Bill does not propose any specific regulatory measures. To include them in the licensing would only intrude unnecessarily into private and normal social activities. The Government is not aware of any evidence that these forms of gambling encourage crime, or put children or the vulnerable at risk.
- 3.77 The Bill will not affect private and non-commercial gambling that takes place at home or at work between colleagues. Private card games, bets, poker nights will be unaffected. Nor will any licences be required for certain forms of gambling at non-profit social events that are designed to raise money for good causes such as church bazaars and school fetes.

### **Non-commercial gaming and betting**

- 3.78 Events in which the organisers have no opportunity to make a profit, and where all participants have an equal chance of winning will not require any licences. The Bill will therefore not affect card, chess, backgammon or domino tournaments or similar events (where no betting on the outcome takes place on the premises).

### **Members clubs & miner's welfare institutes**

- 3.79 We will broadly maintain the special position of members clubs that allows them to undertake certain limited non-commercial gaming activities. Provisions on gambling in clubs will be published as soon as possible.

### **Travelling showmen's pleasure fairs**

- 3.80 Gambling is not the primary purpose of fairground events, nor is it the principal inducement for people to attend. Gambling permitted is low risk and, by the very fact of the fair being mobile, should not encourage problem gambling. We will therefore broadly maintain present entitlements. Draft clauses on this topic will be published as soon as possible.



## Chapter 4: Controlling the evolution of gambling opportunities

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- 4.1 The licensing objectives in the draft Bill explain what the Government wishes to protect through the regulation of gambling. Within the context of these objectives, and the development of gambling as one part of a modern leisure industry, the Government judges that it is appropriate to allow for a controlled evolution in the choice of gambling products available to informed adult consumers.
- 4.2 In making its proposals for modernisation, the Government has focussed closely upon the risks of an increase in problem gambling. In a number of jurisdictions across the world, over hasty liberalisation has been followed by an upsurge in the number of people with gambling problems. We have considered the evidence available carefully. We have also listened to those who seek to help sufferers.
- 4.3 In a number of instances, the Government has adopted a policy of caution and rejected suggestions – for example ‘wide-area progressives’ involving unlimited prize gaming machines across different premises – that might act as accelerators of problem gambling behaviour. This concern is also reflected in the decision to bring ‘fixed-odds betting machines’ within the controls proposed for gaming machines, as the Government believes that the opportunities these outlets offer for quick-fire play, high stakes and big prizes present the same risks as those posed by jackpot gaming machines. In addition the Government will prohibit, through the Bill, rapid draw lotteries with substantial prizes that could too encourage dangerously repetitive play.
- 4.4 In each case, the Government has had to make a careful judgement about where the balance of consumer choice and public interest properly lies. But the guiding principle has been that of safety first – so that if a product has such innate risks that it cannot be offered in a socially responsible fashion then the Government will not permit it to be made available. The Government is also clear that where extensions of choice are proposed, they are not to be regarded as being for all time. The Government will look to the Gambling Commission to advise it about the impact of change. Consumers and the industry should be in no doubt about the Government’s seriousness about using the flexibility available in the legislation to withdraw some of the extensions of permitted gambling proposed in the draft Bill. It will do so if there is evidence that a particular aspect of liberalisation has led to a significant or disproportionately large increase in the level of problem gambling, or to other negative effects upon particular communities.

### Casinos

- 4.5 Some of the most significant changes in the Bill relate to the controls on casinos. Casinos are the classic instance of why gambling controls in this country are ripe for reform. At one time, British casinos were the focus of serious concern about crime. Legislation in the late 1960’s imposed drastic restrictions on them, but since that time the diligent work of the Gaming Board, and the commitment of the industry itself, has led to the development of a British casino industry with a

worldwide reputation for propriety, integrity, and social responsibility. At the end of March 2003 there were 126 casinos operating in Great Britain.

- 4.6 The casino sector is restricted by a series of controls that unnecessarily discourage innovation and restrict consumer choice. These have prevented it from developing to compete in the international market and deliver major benefits – as the casino industry has overseas – in terms of leisure opportunities, employment and regeneration.
- 4.7 We envisage a transformation of British casinos. Casinos will be able to offer the full range of gambling products for adults to enjoy. They will be able to offer table games and unlimited prize gaming machines, in combination with betting, bingo, and restaurants, bars, entertainment and the widest possible range of other leisure facilities.
- 4.8 The Gambling Commission will regulate casinos to the same high standards as the Gaming Board, to ensure the honesty of their product and the integrity and propriety of their operators. There will, however, be a number of significant changes:
- The system under which casinos have to operate as members clubs, with a 24 hour waiting period between joining and playing, will be abolished. Any person aged 18 or over will be able to enter a casino.
  - The system of permitted areas, under which casinos can only be set up in one of the specified areas in England, Wales and Scotland will also go.
  - Casinos will be able to offer betting and bingo where they hold appropriate operating licences.
  - Casinos will be allowed to have internally linked gaming machines, with no limits on stakes or prizes, offering potentially very large jackpots. Gaming machines of this kind are common in casinos overseas but have never been allowed in Great Britain before.
- 4.9 We have already changed the law to allow casinos to offer live entertainment and permit customers to drink alcohol on the gaming floor.
- 4.10 The proposals on casinos in the Bill follow closely the recommendations of the Gambling Review Body. Casinos of the kind are well established and successful in other jurisdictions. Subject to proper controls there is no reason why they cannot be similarly successful in Great Britain.

### **Small and large casinos**

- 4.11 The Review Body did however express concern about the possible proliferation of small casinos that may be hard to regulate effectively. The Government shares this concern. We will therefore proceed on the basis that the minimum table gaming area (that is, the area in which gaming tables may be played) for any new casino should in the first instance be no smaller than 5,000 sq ft.

- 4.12 There will be two types of categories of casino premises:
- 'Small': with a total table gaming area (excluding other gambling facilities such as betting, bingo and gaming machines) of between 5,000 and 10,000 sq ft); and
  - 'Large' (above 10,000 sq ft).
- 4.13 The holder of a casino operating licence will be able to apply for both small and large casino premises licences. Most of the existing 126 British casinos have smaller gaming areas of less than 5,000 sq ft, and these will continue to be able to operate. Under our proposals the new 'small' casinos – along with casinos now in operation that are below the new minimum size requirement – should be able to install up to three no-limits machines for each gaming table which is available for use. That will mean that machines do not unduly dominate the gambling activities. By contrast casinos in the large category will, if they also have more than 40 gaming tables, be entitled to offer an unlimited number of gaming machines.
- 4.14 But we think that it will be important, to ensure that deregulation takes place in a controlled and balanced way, that casinos (of any size) while free to install gaming machines with no fixed prize limits, are not able to link them to machines on other premises to create progressive jackpots. Linking between premises would undercut effective controls over the availability of machines which evidence from overseas suggests importantly influence the incidence of problem gambling.
- 4.15 These arrangements would enable large casinos to make very substantial jackpots available through linking machines on-site. Such casinos would for the first time enable British consumers to enjoy here the kind of facilities and leisure experience that characterise major casinos in other countries. The appearance of unlimited prize gaming machines in British casinos, however, will also require additional effort on the part of casino operators to ensure that their staff are trained to monitor the conduct of customers, to ensure that they are prompted, where appropriate, to take breaks from playing on machines.

## **Betting**

- 4.16 The betting industry in Britain is thriving. It has proved itself to be innovative and dynamic.
- 4.17 There are around 3,800 holders of bookmakers' permits. Betting is widely available in over 8,000 licensed betting offices and numerous telephone and Internet betting operations. Horseracing and greyhound racing have traditionally formed the core of the bookmakers' product, but the development of new markets in recent years has diminished the bookmakers' reliance on them. Deregulation has also enabled betting operators to provide improved facilities in betting offices.
- 4.18 Probably the most significant boost for the betting industry recently was the Government's decision to switch the betting duty regime from one based on turnover to one based on gross profits. This effectively reduced betting operators' tax liability and enabled them to eliminate deductions from their customers' winning bets, allowing them to compete on a more level playing field with their offshore competitors.

- 4.19 Unlike gaming, the products that betting operators are permitted to offer have only very rarely been constrained by regulation. Nor are there any regulatory controls on the frequency of bets or the media that can be exploited. To this extent, betting has enjoyed a far greater degree of commercial flexibility than that available to other sectors of the gambling industry. New technologies have also provided fresh opportunities for betting operators. These range from new products like 'virtual horseracing' displayed on big screens in betting offices to new delivery systems like interactive television, WAP and next generation phones. The Internet has also enabled the development of entirely new betting products, most notably betting exchanges that facilitate person-to-person betting markets.
- 4.20 As well as being freer to develop new products, in comparison to other sectors of the gambling industry, the licensing of betting is subject to lower safeguards. Betting operations with offices counted in the hundreds are authorised by a single bookmakers' permit granted by the licensing justices of one petty session area<sup>5</sup>. There can be no doubt of the rigour with which licensing justices approach their responsibilities, but with so few resources at their disposal and limited powers, it is difficult to see how they can scrutinise comprehensively the conduct of very large bookmaking companies.
- 4.21 The aim of the draft Bill, therefore, is not to curb the industry's innovation but rather to ensure that proportionate regulatory action is taken to protect the licensing objectives. The Commission will provide a more comprehensive set of entry barriers to ensure that only those who are suitable, competent, and who have sufficient financial resources will be able to obtain betting operating licences.
- 4.22 The Commission will issue a main betting operating licence for operations through betting offices and at betting tracks<sup>6</sup>. There will also be a licence for pool betting offered at betting offices and at specified categories of betting track, which in the first instance will be limited to horse racecourses and greyhound tracks.
- 4.23 There are particular arrangements for pool betting on British horseracing, and provision is made to allow coupons for pool bets on football to be received in non-gambling premises and for persons aged 16 and over to participate in football pool betting. Conditions attaching to betting licences are likely to include more rigorous requirements with respect to the content, display and dissemination of betting rules than are required at present.

### **Betting exchanges**

- 4.24 Betting exchanges have been a successful innovation in the betting market, using the Internet to facilitate person-to-person betting through the facilities offered by the exchange operator. The volume of trade passing through betting exchanges continues to increase. The Commission will define exchanges as 'betting intermediaries' and issue a specific licence for their activities. This category will also include tics-tacs operating at horse racecourses.

<sup>5</sup>In Scotland, the Licensing Board issues Bookmakers' permits.

<sup>6</sup>The category of 'betting agent' in present legislation will not be continued. The functions undertaken by agents will be addressed through personal licensing in betting operations.

- 4.25 The Government's view is that the regulatory risks associated with betting exchanges can be negated by focussed regulation, in the same way that risks associated with other betting operators can be contained. The entry tests will be much the same as those for other betting operators but will be tailored to fit the exchange model. Betting exchanges will be permitted to operate through betting offices and at betting tracks and, where they also hold a remote operating licence, through the Internet and other technologies. Conditions attached to the betting intermediary licence will require practical protections such as the compulsory ring fencing of customer deposits, comprehensive audit trails, and the flagging of certain categories of customer. There will also be a specific prohibition on the exchange operator participating in the betting exchange, by, for example, 'kick-starting' a particular market. With this new licence in place the Government believes it quite unnecessary to license betting exchange customers. That would constitute superfluous over-regulation.
- 4.26 The Government is aware of concerns that betting exchanges may constitute a threat to the integrity of sport. The Government is alive to these concerns, and will take whatever measures are appropriate and proportionate to protect consumers' interests and the integrity of all sports.
- 4.27 Concern has been strongest in relation to horse racing, where the Jockey Club has already taken action to combat the use of exchanges by people whom it licenses. Indeed, it is only right that sports regulators take the leading role in controlling the betting behaviour of participants in their sport. The Gambling Bill cannot relieve regulators of their prime responsibility, but it might usefully complement these measures, and strengthen the deterrents against unfair practices.
- 4.28 We have already made proposals that will help. The draft Bill will provide for a revised offence of cheating including interfering with the outcome of an event on which betting takes place with the intention of securing financial advantage. It will also allow the Gambling Commission to exchange information with the regulatory authorities for sports on which betting takes place where information is relevant to the fairness of betting transactions, and to require exchanges to identify as such bets laid by betting operators or other specified categories who may have access to information which is not generally available. All betting operators will be required, through conditions of their licences, to provide information on betting patterns (and individual bets) at the request of the Commission.

### **Voiding of unfair bets**

- 4.29 The Government does think there is also a case for some additional, new, measures to deal with threats to the fairness of betting events. This would give the Gambling Commission a power to freeze particular specified bets where there was suspicion that:
- A person who has offered a bet has failed to supply information to the betting operator, or has supplied information which is misleading or wrong;
  - The event upon which the bet was placed was carried out in breach of the rules and the person knew about the breach in advance of the bet, or;

- There was cheating in relation to the bet and the person who laid the bet knew about it in advance of the bet.
- 4.30 The Commission would then, in co-operation as necessary with the relevant sporting regulator, conduct enquiries. To do so it will have powers to obtain required information and evidence from relevant persons. Failure to produce such evidence without reasonable cause will be a criminal offence.
- 4.31 If suspicions surrounding the bet and the event were confirmed and had led to an unfairness to a consumer, the Commission would have power to order the relevant bet to be void. The operator would be directed not to pay the bet but instead to return the losing stake or stakes. No commission or other charge would be payable to the betting operator. All parties to the transaction would be able to appeal to the proposed Gambling Appeals Tribunal against a Commission decision.
- 4.32 The power to freeze bets will probably only be usable in relation to bets that are not settled immediately. Betting offices and betting operators at horse racecourses usually settle bets immediately on the declaration of an official result. It may not be practicable for the Commission to take action quickly enough in these circumstances. However, the freezing power would be relevant to operators who pay bets at the end of the business day, or any longer period. Notwithstanding this, it should be made clear that any provisions of this sort would apply to all betting operators.
- 4.33 The costs of the freezing actions and related activity on investigations would be paid for from betting operators' licence fees, in the same way that investigations and prosecutions of illegal gambling are to be funded. Draft clauses on these proposals will be published as soon as possible.

#### **Fixed odds betting machines**

- 4.34 Fixed odds betting machines have been appearing in increasing numbers in betting offices. As a gambling product they are evidently attractive to customers. The Government has been clear during the discussions about this product that it will legislate to bring these machines within the controls designed for gaming machines. It has also stated, in the 2002 White Paper and afterwards, that betting offices will be permitted to install up to four gaming machines with prizes up to £500. We will give effect to this limit. We will also continue discussions with betting operators about the socially responsible use of existing machines sited in betting offices.

#### **Spread betting**

- 4.35 Spread betting is a popular gambling activity. To date, the Financial Services Authority (FSA) has regulated it, although spread betting companies have also taken out bookmakers' permits. This sort of double regulation should be avoided and the draft Bill proposes that the FSA should take full regulatory responsibility. Expertise lies in the FSA and a high proportion of spread betting turnover is focussed on movements of financial markets. We will review the position five years after the Commission has come into operation. By that stage the Commission will be better placed to determine whether, on the basis of its experience, the regulation of spread betting might sit more appropriately with a gambling regulator than with the financial services' regulator.

## Bingo

- 4.36 At the end of March 2003, there were 699 bingo clubs in Great Britain. Bingo can also be played in a wide variety of other situations – in pubs and clubs (both with permission from the Magistrates), in arcades, and at social and charity events. Indeed, there are a total of seven different legal provisions, in the Gaming Act 1968 and the Lotteries and Amusements Act 1976, that allow for bingo in various venues. These have varying requirements as to stakes, prizes, and arrangements for charging players by way of participation fees or levying money from their stakes.
- 4.37 As part of its commitment to gradual and cautious reform of gambling controls, the Government is permitting greater freedom for commercial bingo operators in the forms of bingo they can play. Bingo in non-commercial situations and smaller scale bingo will continue as now.

### Linked and multiple bingo

- 4.38 The law allows bingo premises to link together so that players in different clubs can play the same game at the same time to the same numbers, for larger, pooled prizes. These games – known as either 'multiple' or 'linked' bingo - are subject to special prize limits. Organisers of 'multiple' bingo, which has the larger limits, need a special licence from the Gaming Board.
- 4.39 We will remove the limits on linked and multiple games and the need for a special licence. The standard bingo operating licence will permit these activities. Bingo premises and casinos will both be able to operate bingo rollovers, taking money from players' stakes in one bingo game to add to the prize pool in another. Rollovers will not be permitted in pubs, clubs, arcades or other venues.

### Bingo in pubs and clubs

- 4.40 So far as pubs and clubs are concerned however there will be a significant difference between the law as it now is and what is in the draft Bill. The Gambling Review Body recommended that the Gambling Commission should regulate bingo and other equal chance gaming in pubs and clubs where the size of prizes was beyond £1,000 a week. In *A Safe Bet for Success*, we said that we accepted that in principle, but that we would need to give further consideration both to the £1,000 limit and to the status of the games.
- 4.41 There are clearly issues of regulatory consistency if pubs and clubs can run bingo games on a scale comparable with bingo premises but the propriety and integrity of games are not subject to any control.
- 4.42 Pubs and clubs will have to apply to the Commission for an 'additional bingo operating licence' if they have had any period of seven days in which either stakes or prizes have totalled £1,000 or more. The draft Bill will include a power for the Government, subject to Parliamentary approval and on advice from the Gambling Commission, to extend this requirement to other 'equal chance games' or to amend the money limit. The regulatory arrangements for bingo in pubs and clubs will be set out in further draft clauses, to be published as soon as possible.

## Lotteries

- 4.43 Charitable lotteries are a popular and enduring feature of British life. The defining feature of legal lotteries is the chance to win a prize, with the guarantee that the proceeds are contributed to charity or a good cause. There are four types permitted by the Lotteries and Amusements Act 1976 ('the 1976 Act'):
- Small lotteries (for example, at fetes or bazaars);
  - Private lotteries (confined to a club or a workplace);
  - Societies' lotteries (including charity lotteries) Proceeds from societies' lotteries alone rose from £108.9 million in 2001/02 to £129.9 million in 2002/03, an increase of nearly 20%, and;
  - Local authority lotteries.
- 4.44 In general, the 1976 Act has served its purpose well and the Gambling Bill will replicate its key features. In particular, the Government is anxious to preserve the non-commercial status of British lotteries and to protect them from exploitation for profit. The draft Bill therefore prohibits commercial, for-profit lotteries.
- 4.45 As part of the Government's determination to protect lotteries from commercial exploitation, the draft Bill will include a distinction between lotteries and prize competitions. The aim will be to protect lotteries that collect money for good causes. Where it is clear that payment is required for entry (i.e. there is no genuine free entry route) or the result depends completely on chance, a competition will be a lottery and may not be run for commercial purposes.

## The new regime

- 4.46 The Gambling Bill will continue to provide for the four types of lotteries permitted in law, in addition to the National Lottery. There will be an additional category of lawful lottery, the customer lottery. This will permit an occupier of any small business premises to promote a lottery for the benefit of its customers. Customer lotteries will be able to have cash prizes. Such lotteries already take place. If properly regulated and kept to a small scale they do no harm, even though they are technically illegal. So the Bill will regularise their position.
- 4.47 The draft Bill proposes some other significant changes to the regime set out in the 1976 Act. Most significantly, the term 'lottery' will be defined. The purpose of the definition is to set a clear boundary between lotteries, which should only be operated for non-commercial purposes, and other competitions that must include a degree of skill (but not merely forecasting) or a free entry route. The new Gambling Commission will issue a lottery operating licence for local and larger society lotteries. This licence will also be available to external lottery managers.
- 4.48 The draft Bill also clarifies the legal position on lottery 'rollovers'. Rollovers will not be permitted for private and small lotteries; they will, however, be allowed for societies' and local authority lotteries. We intend to permit lottery tickets to be sold through vending machines in all five types of lawful lottery; this is currently illegal for society and local authority lotteries.
- 4.49 The draft Bill also stipulate that for local and societies' lotteries, a minimum of 20% of gross lottery receipts must go to 'good causes'. The current limits on

proceeds are: £2 million from an individual lottery and £10 million per society or local authority in any one year. The current limit on prizes is £25,000 or 10% ticket sales, whichever is greater. If the full £2 million worth of tickets are sold, the maximum possible prize will be £200,000. The Government doubled these limits last year, and will keep the possibility of further reviews in mind in the light of the Commission's advice.

- 4.50 The draft Bill also aims to reduce the problem of repetitive play in lotteries that can offer high prizes.

### **Prohibiting chain gifting**

- 4.51 The Gambling Bill will target specifically the menace of chain gifting schemes. These schemes work like chain letters and their survival depends upon ever-increasing numbers of people paying – often £3,000 or more each – to join up. But this type of network always breaks down when the pool of new investors dries up. People joining the schemes will then lose their money. Women have been particularly targeted, through schemes such as “Women Empowering Women”, or “Hearts”. The draft Bill will create a new offence to deal with this.

### **Gaming machines**

- 4.52 The draft Bill and secondary legislation will propose a new structure of regulation for gaming machines. Machines will be defined in terms of their maximum stakes and prizes. Category ‘A’ machines will now have no limits in stakes and prizes, but will only be available in casinos. All other categories of machines will have limits of stakes and prizes. These limits will be set out in secondary legislation, so that they can be amended – up or down – on advice from the Gambling Commission. In advising the Government, the Commission will take account not only of market conditions but also of research and other evidence of the potential effects in terms of problem gambling.
- 4.53 Over the last decade, the Gaming Board has carried out a formal review of gaming machine limits every three years. The Gambling Commission may well wish to reach a similar arrangement, and the Government would favour that.
- 4.54 Details of each of the four categories of machine, and where they will be found, are set out in the box below. Categories A, B and C are adults-only machines.

Category	Location	Limits
A	Casinos only	Unlimited stakes and prizes – may be linked within the casino to create potential large jackpots
B	Bingo premises, betting offices adult gaming centres (up to four each), or registered club (up to three each)	Maximum stake £1; maximum prize £500, or £250 in a registered club
C	Bingo premises, betting offices adult gaming centres, adult-only areas of family entertainment centres, pubs and other premises with an alcohol on-licence	Maximum stake 50p; maximum prize £5
D	Family entertainment centres (including seaside arcades, bowling alleys, motorway services and theme parks) and other non-gambling outlets such as cafes, fish and chip shops, takeaways, cab offices, etc.	Maximum stake 10p; maximum prize £5 (Where the machine pays out non-money, non-exchangeable prizes the maximum stake will be 30p – intended to cover ‘crane’ machines)

### Arcades

4.55 The draft Bill provides for three different types of gaming machine arcade:

- **Adult Gaming Centres** will be open to adults (18+) only. These will require both an operating licence and a premises licence. They will be allowed to have up to four Category B machines and any number of machines in Categories C and/or D.
- **Licensed Family Entertainment Centres** will be open to anyone but under-18’s will not be allowed in their adults-only areas. Like adult gaming centres, they will require an operating licence and a premises licence. They will be allowed to have machines in Category C and D, but their Category C machines must be in the adults-only area.
- **Unlicensed Family Entertainment Centres** without an adults-only area will be able to have gaming machines in Category D only. These machines will require permits from the licensing authority, but no operating licence or premises licence.

### Permits and licences

4.56 The draft Bill requires every gaming machine to be covered by either a permit or a licence. An operating licence or a premises licence will cover machines in gambling premises. Gaming machines in non-gambling premises licence (members’ clubs, family entertainment centres without an adults-only area, cafes, fish and chip shops, takeaways, etc.) – will require a machine permit issued by local licensing authorities, of which there will be different types.

### Manufacture and supply

4.57 The Gambling Commission will license gaming machine manufacturers and suppliers, and those who sell, repair, maintain, convert or install the machines;

and those who carry out any of these activities in relation to parts of machines that control the gambling function.

- 4.58 The Commission will carry out thorough checks on those who apply for these licences. But a member of the public who owns a gaming machine and wishes to dispose of it will be able to do so under a special permit from the Commission – these permits will be available quickly and easily, and will not involve detailed background checks.

### **Remote gambling**

- 4.59 Remote gambling encompasses gambling conducted via a wide range of delivery systems (for example, wireless technologies, internet, interactive television, various types of telephony). They differ from one another in various ways, but they have one important factor in common and that is that they all involve the customer not being present on the gambling operators' premises. For this reason, the draft Bill proposes specific, and separate, licences for remote gambling activities.
- 4.60 In Britain at the moment the only permissible remote gambling is betting and the National Lottery. Internet gaming cannot be licensed in Great Britain as a consequence of wording in the Gaming Act 1968 that require players to be physically present where gaming is taking place. It is legal, however, for British citizens to gamble on Internet gaming sites based overseas – although the Government and the Gaming Board cannot offer any protection to them if they do so.
- 4.61 The Gambling Review Body recommended that the Gambling Commission should license all forms of remote gambling. In considering this recommendation the Government had to choose between two broad options, namely regulation or prohibition. It decided in favour of regulation because:
- It sat well with the intention to modernise our gambling laws, particularly since some sectors of the gambling industry are able already to exploit the Internet and other remote technologies.
  - Prohibition would merely continue the present unsatisfactory situation where British citizens can access foreign-based Internet casinos that may or may not be regulated properly, but cannot choose a well-regulated British site.
  - Remote gambling can be regulated effectively and without excessive cost, to standards that will provide strong protections for consumers and vulnerable players.
- 4.62 The Government has decided that it is more sensible to license British based sites that will be regulated up to the standards associated with the gambling industry in this country, rather than leave customers having to gamble with offshore operators who may be subject to less stringent regulation.
- 4.63 The draft Bill's definition of remote gambling is technology neutral to enable it to be as future proof as possible. When there are unforeseen developments in delivery media the Government and the Gambling Commission will be able to adapt the detail through secondary legislation.

- 4.64 The Gambling Commission will attach the highest priority to putting in place measures that prevent children gaining access to gambling sites. The Commission will therefore compel operators through licence conditions (and connected codes of practice) to introduce thorough registration processes, using credit card and other ID checks to ensure that children are excluded. There will also, of course, be an important role for parents in controlling their access by children to the Internet, to television and other media outlets.
- 4.65 The Commission will also require (through licence conditions) that vulnerable adults are given protection to assist them in controlling their behaviour. Codes of practice may suggest means of achieving such protections by measures such as on-screen 'reality checks' that will remind players of any losses and how long they have been playing and controls on the rapidity of play.
- 4.66 There have also been concerns in some quarters that the use of the Internet for gambling purposes will open up opportunities for money launderers. The case for this is far from proven, but while the risk exists adequate safeguards must be put in place. These safeguards will build on the Gambling Commission's licensing regime, with its thorough checks of applicants and licence conditions requiring comprehensive registration systems, precise audit trails, and tight payment method controls. Codes of practice may also describe methods of tackling these issues. The Commission will also have access through statutory gateways to information held by various enforcement agencies such as the police, Customs & Excise, and the National Criminal Intelligence Service. This is apart from any directly applicable anti-money laundering rules.
- 4.67 Remote gambling raises difficult questions about regulatory jurisdiction. Technology makes possible instantaneous cross-border gambling, raising difficult and conflicting arguments about where the gambling is deemed to be taking place. The Government's judgement is that the better view is that the gambling takes place wherever the gambling operator is based. The hardware conducting the gambling (which often takes the form of a random number generator presenting its results as casino or other games) is at the operator's site. The player's delivery media merely reports what is occurring in the operator's hardware. The draft Bill therefore requires all remote gambling services located in Great Britain to seek a licence for their activities, regardless of whether their services are designed for British citizens.
- 4.68 The Government can, of course, only speak for itself. It is aware that other jurisdictions, including some of our European Union partners, have reached different conclusions. The Government will continue discussions with our European partners and other states on this difficult issue and remains amenable to the possibility of agreeing standards of regulation across jurisdictions. In advance of such agreements, however, it would be disappointing if other states did not acknowledge the high levels of integrity and probity associated with gambling operators licensed here. Irrespective of whether their customers are based here or abroad, the clear intention is that British based remote gambling operators will provide the safest, fairest gambling opportunities available anywhere.

4.69 The draft Bill does not prevent British consumers from gambling with offshore operators, but it would be surprising if they felt the need to do so once the new regime is in place. The Government's firm belief is that this newest sector of the British gambling industry can establish itself as a world leader.



## Chapter 5: The impact of change on the high street

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- 5.1 The draft Bill will scrap the system of demand tests and casino permitted areas that the 1960's legislation used to prevent undue proliferation of gambling outlets.
- 5.2 But we are not proposing to replace it with a free-for-all in which gambling operators can set up wherever they like, regardless of the views of local people. Nor are we allowing for a new system where gambling facilities will invade normal social spaces.
- 5.3 It is possible that the changes proposed in the Bill will be followed by an increase in the number of gambling outlets across the country. An alternative possibility is that the industry may move towards fewer, larger outlets in developments similar to other parts of the leisure industry. A trend of this sort has been evident in the betting office market over the last few years, with the major groups consolidating their estates and concentrating efforts on improving the appearance and attractiveness of shops.
- 5.4 How many new gambling outlets there will be will depend ultimately upon the market demand for them. But the Government is keenly aware of a general view that the degree of liberalisation proposed by the Bill, whatever the prevailing market conditions, should not be allowed to lead to an undesirably large proliferation of gambling premises or to permit gambling to become a predominating feature of town centres.
- 5.5 The Government agrees with this general view. For this reason, the draft Bill makes it clear that, with a very few exceptions for small-scale gambling, temporary events or domestic gambling, gambling will only be permitted to occur on licensed premises. It is a very important principle of the Bill that consumers should be in a position to know when they are entering gambling premises, and know what to expect on those premises. It is essential, too, that people who simply do not want to be involved in gambling, for whatever reason, can continue to be undisturbed by it in their daily lives. There is a link here, too, to the new regime for the advertising of gambling, discussed in the next chapter.
- 5.6 In terms of numbers of premises, it is important to remember that we are not starting with a blank sheet. There is already a diverse and mature range of gambling premises. There are over 8,000 betting offices, almost 700 bingo clubs and 126 casinos, as well as several hundred betting tracks. With the exception of casinos, the Bill will not alter, in any fundamental way, the products available via these premises. No doubt the appearance of betting offices and other premises will continue to evolve as they consolidate their position in the mainstream of the leisure industry, but it seems improbable that there will be any dramatic increase in the number of these premises as a consequence of reform.
- 5.7 It is an important feature of the Bill, too, that there will be no significant proliferation of gaming machines outside casinos. Evidence from overseas, in particular Australia, has shown clearly that one of the principal dangers of increases in problem gambling stems from widespread availability of gaming

machines, especially machines with potentially high prizes. Under the proposals in the draft Bill, such machines will be available only in casinos.

- 5.8 Machines in betting offices, bingo premises and adult arcades will be confined to maximum prizes of £500, and, as discussed in the previous chapter, the 'fixed-odds betting machines' in betting offices will also be brought under these controls.
- 5.9 Nor will gaming machines invade public spaces. The gaming machine entitlements that public houses, members' clubs and other non-gambling businesses such as cafes and fish and chip shops will be unchanged. The top prize will remain at £25 in a pub (from a Category C gaming machine) and £250 in a club (from a Category B gaming machine). A café or other business without an alcohol licence will be able, as now, to have a machine with a top cash prize of £5 (a Category D machine).

## Casinos

- 5.10 The Bill will, however, enhance significantly the offer that casinos will be able to make to their customers. There are already, in advance of reform, a significant number of British and international casino operators who have expressed a serious interest in developing new casino facilities in various parts of the country. These companies see unlimited prize gaming machines as a source of significant potential profit, as they are for casinos internationally.
- 5.11 The Government has considered carefully the potential impact of change on communities across the country. New investment in leisure facilities, and the additional jobs that investment would generate, are obviously welcome. But the Government is mindful too of the negative impacts that could also be associated with the widespread availability of high prize gaming in readily accessible locations.
- If the regulatory structure allowed for the widespread proliferation of small or medium sized casinos in many town centres, it may bring about a change in character of localities that may not be welcomed by the population. While the Government does not wish to revive any moral objection to gambling in public policy, it does seem fair that it keeps in mind the overall character of town centres, and the balance of facilities available.
  - The Government also thinks it prudent to proceed with caution with respect to the widespread availability of unlimited prize gaming machines. These machines bring a degree of risk of problem gambling that must be addressed. Therefore, while the Government believes that these machines can be operated responsibly, it would be sensible to take liberalisation at a controlled pace, rather than free up controls too rapidly, only to have to rein back later.
  - From a practical perspective, the Government is also conscious of the task facing the new Gambling Commission. A large number of smaller casinos would obviously be more difficult to regulate than fewer, larger establishments. It is important, in the early stages of reform, that the Commission be well placed to monitor developments and advise the Government about the impact of the changes.

- 5.12 The Government has also taken careful account of the advice of the Culture, Media and Sport Committee, which recommended in its seventh report of the 2001-2002 session that:
- The Government should reconsider the Gambling Review Body's conclusion that casinos should have a minimum gaming floor area devoted to table games of 2,000 sq ft;
  - There should be an reassessment of planning guidance to ensure that local opinion has a voice in proposed casino developments;
  - Local authorities should develop the most beneficial strategy for licensing and approval planning for resort casinos, so that they contribute to the areas in which they are built, and;
  - The Government should endeavour to strike a balance between gaming tables and machines in casinos.
- 5.13 It is for these reasons that the Government proposed (in its policy statement issued on 7 August 2003) that the minimum size for a new casino, in terms of the area available for table games, should be 5,000 sq ft and that only casinos with a table gaming area of 10,000 sq ft and more than 40 table games be permitted to house as many Category A gaming machines as may be safely located there. Casinos with a table gaming area above the minimum but smaller than 10,000 sq ft will be permitted only three Category A machines for each gaming table. In addition, casinos will not be permitted to arrange so called 'wide-area progressives' through the linking of gaming machines across a number of locations. Existing casinos, with table gaming areas under the new minimum, will be permitted to continue operating.
- 5.14 These proposals make less likely substantial growth in the number of relatively small casinos. The Government believes that its proposals will not therefore involve substantial disturbance to a significant number of smaller towns and cities across Britain.
- 5.15 Large casinos will be able to make very substantial jackpots available through linking gaming machines on site. British consumers would be able to enjoy here the kind of facilities and leisure experience that characterise casinos in other countries. The Government's proposals for new casino controls will also open up an opportunity for the construction of major multi-purpose leisure developments comprising, for example, casinos, hotels, restaurants, entertainment and other facilities.
- 5.16 While the draft Bill makes proposals for gambling regulation in its own terms, the Government thinks it important that new casino developments of this type are not only profitable for operators but also bring tangible benefits for the areas in which they are to be located. The Government proposes, therefore, that Regional Planning Bodies will set out planning policies for leisure developments of regional significance, including casinos, which identify suitable locations within the region that would optimise their contribution to tourism and regeneration.
- 5.17 Planning arrangements enable local authorities to ask for contributions towards any area that has a more than trivial connection to the proposed development. The scale and purpose of contributions will be negotiated with the developer but

could include improvements to local transport arrangements or contributions to improved community safety. This means casino developers can offer additional benefits to local communities. The Office of the Deputy Prime Minister is also developing new Government policy to make such contributions easier.

- 5.18 The statement made on 7 August sought views from interested parties on its recommendations, in particular on the possible market effects of the minimum sizes for different types of new casino. Consultation on the statement closed on 31 October and we are at present considering the views offered. The Government will bring forward, as soon as possible, an assessment of the views offered and will make clear any further development of its policy. The Government will also publish a supplement to the Regulatory Impact Assessment published with the draft Bill, assessing any impact on competition.
- 5.19 The draft Bill will open up the casino market in a controlled and responsible way that keeps in mind the need to preserve the character of towns and cities. If the numbers of casinos grow, there should be benefits in terms of additional employment and for tourism, including visits to seaside resorts. The draft Bill makes sure that new investment in casinos will bring benefits for employees and local communities, as much as the gambling operators.

## Chapter 6: Protecting consumers, children and the vulnerable

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6.1 For the overwhelming majority of people gambling is one leisure choice amongst many that they can enjoy in their spare time using spare money. Gambling also has the potential to attract tourists to different parts of Great Britain, where they might choose to visit larger international style casinos, and at the same time take in a number of leisure facilities in the same location or nearby. Visitors might be attracted from within the United Kingdom or from abroad. In all of this, gambling can be a fun and relaxed part of everyday life that can also bring benefits in terms of additional employment to areas that can develop exciting and attractive venues.

### The need for strong protections

6.2 Yet it is incumbent on the Government, in modernising the law, to acknowledge that gambling too brings with it risks for children and for more vulnerable adults. The nature of gambling is such that it can lead some individuals to quite irrational behaviour. When allowed to get out of control, it can be associated with great distress and damage to individuals and families. For this reason, there must be robust protections in place.

- Customers must have information to hand about the risks they take when they gamble – they must be made aware what they are getting themselves into;
- Licensed gambling operators must provide their products in a responsible fashion. It is fair to highlight the excitement of gambling but there must be no enticement for people to believe that it guarantees a life changing experience or encouragement to take risks beyond what is safe for them;
- Advertising of gambling must be offered in a way that is not only truthful, but realistic and responsible about the true odds of winning, and;
- Where individuals do develop problems linked to gambling, the industry must be in the forefront of efforts to provide them with help.

### Accurate information and opportunities to stop

6.3 One very powerful way to discourage individuals from developing an unhealthy approach to gambling is to provide them with clear information about the true likelihood of winning. Many academics and commentators have observed the irrational beliefs amongst players that can lead to problem gambling. Individuals can 'chase losses' in the mistaken belief that if they keep playing or betting they are more likely to be lucky and win their losses back. Caught up in the adrenalin and momentum of the moment, they forget that each event is quite unique, and the chances of winning or losing relate only to that event.

6.4 Therefore, one of the key elements of a socially responsible gambling operation will be one that provides clear, immediately accessible, information to consumers about the rules and/or the likelihood of winning. This is likely to be a licence condition for all operators. While it will be for the Gambling Commission to advise about the content, the code on social responsibility might describe specific ways in which different types of operators can display the true odds of winning on each occasion – and what steps might be taken to bring that information ever

more clearly to the gambler's attention. The code might also require licensees to train their staff to recognise the signs of problem gambling behaviour, and encourage their staff (taking their personal safety into account) to intervene and provide guidance to persons who may need help to stop gambling and recognise a developing problem before it becomes destructive. Moreover, as research into the causes of problem gambling in Britain develops, it is to be expected that the Commission will seek to bolster its code to ensure that players are offered the best protection available. The Government expects gambling operators to be as committed to the welfare of their customers as they are to their commercial performance.

- 6.5 Giving customers opportunities to break away from gambling will be even more important in the context of remote gambling, where there is potential for the individual to get sucked into the gambling experience. The very attraction of being able to access information and entertainment in the privacy of the home, through the Internet, is in itself a source of possible risk. There will be a number of methods by which operators can introduce 'reality checks' to the gambler – whether by a pop up clock or prompt to pause on the screen – or, even more powerfully, through a requirement to preset a limit on losses after which the user will be 'locked out' for a period. Best practice in this area, in common with all matters related to the Internet and other remote technologies, is evolving rapidly. It will be imperative, therefore, that the Commission work to ensure, through its licence conditions and communication with the industry, that the best possible protections are offered to British consumers.

### **Advertising of gambling products**

- 6.6 The advertising of many forms of gambling is subject to tight legal restrictions. In recent years, as attitudes to gambling have changed, some of these restrictions have been relaxed. Restrictions on football pools were lifted in 1995 and those relating to bingo in 1997. But there remain wide-ranging restrictions on the advertising of casino games, gaming machines and lotteries. Betting companies may publish in newspapers and in other print forms, but may not broadcast on radio or television. Spread betting companies are permitted to advertise under the auspices of the Financial Services Authority, as an investment opportunity. There are also restrictions imposed by advertising regulators' codes of practice, including the Office of Communications and the Advertising Standards Authority.
- 6.7 The Gambling Review Body recommended that advertising of gambling products and premises should be permitted, subject to a Gambling Commission code of practice. It also recommended that breach of the code should be subject to enforcement action up to and including the revocation of the operating licence. The Government accepted these recommendations. It does not make sense to continue general prohibitions on advertising gambling if it is to be treated as a normal leisure activity (even if one that requires thorough regulation). The Review Body also recommended that the impact of relaxing advertising restrictions be monitored and, in particular, that the possibility of requiring the attachment of a warning about the risks of gambling to all relevant adverts is held open. The Government believes that this will be an important task for the Commission, although some regulation of advertising will still need to be performed by primary and secondary legislation particularly as it will apply to all advertisers, not just those licensed by the Commission.

- 6.8 The Commission will have power to attach conditions to licences focussing on the advertising of gambling products. It may also issue codes of practice. It will be for the Commission to consider the contents of any code, following consultation, although there will be no necessity to duplicate the codes already put in place by the advertising regulators. Consumers should, of course, be able to expect all advertisements to be truthful, but in gambling the bar needs to be set higher still: adverts must be responsible and not include any inference that the gamble will necessarily bring about a life-changing win, without also allowing the consumers to understand the true odds of winning such a large amount of money.
- 6.9 The Government will bring forward draft clauses on advertising as soon as possible.

### **Credit and inducements**

- 6.10 Consumer credit is a feature of everyday life. Different regimes have evolved over time in the various sectors of the gambling industry. The Gaming Act prohibits operators licensed under the Act (or persons with whom they have an arrangement) from offering credit for the purpose of gaming or to discharge a gambling debt. This prohibition covers casinos and bingo. There are no equivalent provisions for betting or lotteries – credit betting has existed for many years. Customers may also use credit cards to place bets, to gamble on the Internet (credit card checks are also the main method of age verification) and to withdraw cash from automatic tellers situated in casinos and other licensed premises. Credit cards may not, however, be used in gaming machines.
- 6.11 Combining credit arrangements of any type with gambling demands very careful consideration. There is a risk that the provision of credit by gambling operators could raise issues of exploitation where consumers receive inappropriate encouragement to gamble beyond their true means.
- 6.12 The draft Bill will make provision to continue the prohibition on the offering of credit at casino and bingo premises. It is the view of the Government that these prohibitions have been successful. The Bill will also maintain the prohibition on the use of credit cards in gaming machines and also lottery vending machines. Outside these categories, the Bill gives the Gambling Commission power to judge whether, and to what extent, gambling operators should be permitted to provide credit to customers. It will do so by attaching conditions to the operating licences of gambling providers.
- 6.13 While it will be for the Commission to judge the best method, it might limit the availability of credit by:
- Prohibiting operators from offering credit unless specifically requested by the customer;
  - Placing limits on the permissible level of credit for each customer;
  - Requiring a delay between the offer of credit and its use in gambling;
  - Banning Internet providers from offering further credit 'on-screen' as soon as existing credit is exhausted.

- 6.14 Such conditions may be applied to any licensed operator at the discretion of the Commission (or the Secretary of State), and (if imposed by the Commission) subject to the same arrangements for review and appeal as all other operating licence conditions. While it will be for the Commission to judge how to best exercise its powers in this area, it will be conscious in this of its licensing objectives. One of these objectives is the protection of vulnerable persons from being harmed or exploited as a consequence of gambling. The inappropriate extension of credit is certainly one way in which vulnerable persons might be exploited. It would also be likely to be judged as a failure to accord to acceptable standards of social responsibility.
- 6.15 The Gambling Commission will also have power, through its licence conditions and its codes of practice, to place controls on the inducements to gamble that may be offered by gambling operators. We have taken note of a number of ways in which operators encourage customers to keep playing or betting.
- 6.16 Betting operators often offer free bets when customers open a credit account, and then offer further free bets after a given number or value of paid stakes. Operators of Internet casinos, based in other countries, as well as introductory offers, sometimes offer cash-back schemes where, for example, the player is given \$1 free to bet with when they have spent \$100 from their account. We have also become aware of more sophisticated customer loyalty schemes operated by casinos in the United States. The schemes operate much like the loyalty programmes offered by supermarkets in this country, with a smart card that earns 'points' for various rewards, and which hold information about the individual's playing patterns. In theory, these cards could be used to alter the appearance of gaming machines, or their behaviour, in order to encourage the user to continue playing.
- 6.17 As well as these more advanced methods of inducement, there are more straightforward offerings from operators. Some casinos offer free meals to customers who spend a certain amount. Bingo clubs might arrange for a free bus to run on busy nights.
- 6.18 There are obvious dangers involved in operators providing inducements to gamble. Any benefit that induces individuals to gamble brings with it a risk of encouraging irresponsible gambling behaviour, particularly where it involves giving an opportunity to gamble at a reduced cost as a consequence of prior expenditure or prior play. Such inducements have the potential to distort the consumer's understanding of the true costs of gambling, and thus encourage individuals to take inadvisable, additional risks. We are concerned in particular about the more advanced customer loyalty scheme that, when combined with gaming machines linked to a customer database, could allow casinos and other operators to manipulate their products in a way that stimulated players to keep playing.
- 6.19 There is a need to be cautious here. In devising the draft Bill, the Department considered whether it would be sensible, in the light of these potential risks, to propose a general prohibition on inducements that rewarded prior play or prior expenditure (as opposed to those that were merely free introductory offers). We decided against including such provisions in the draft Bill on the grounds that we were not convinced that all inducements of this type in fact represented a risk

that would justify a measure so broad in its effect. Many inducements based on prior expenditure may be quite innocent, in that they have no substantial impact upon the future behaviour of customers. Others are plainly more concerning.

- 6.20 Therefore we propose that control of inducements, other than those prohibited by in the Bill, be addressed by conditions attaching to operating licences. Commission codes of practice may also address the issue. Such an approach will provide the Commission with flexibility to adapt its approach to the risks involved in different types of inducement, in order to ensure that the customer is given effective protection from exploitation. Should the risks to customers become more immediate, the Government will retain the option of imposing a general condition on operating licences that would have the effect of prohibiting all inducements to gamble. The Government will bring forward draft clauses on these issues as soon as possible.

### **Gambling debts**

- 6.21 Acts of Parliament dating back to 1710 have the general effect of making gambling debts unenforceable in law. In earlier times, the exclusion of gambling from the normal laws of contract probably reflected a moral objection to such contracts being entered into at all. In the 1951 report of the Royal Commission on Betting, Lotteries and Gaming (Cmnd 8190) it was recommended that there be no change in the law with regard to enforceability because it was thought that the courts would likely face difficult practical problems in dealing with gambling cases – although the Commissioners did support the principle of debts being enforceable. The expected problems related to matters such as proving the existence of bets and the “frequently loosely drafted” rules of betting operators.
- 6.22 The Government believes that it is time to consign this exemption to history. While difficult cases may yet arise, we have no doubt, with proper receipts, clear rules and regulation, that it is right that gambling debts be treated as no different from any other forms of credit. The draft Bill therefore proposes the repeal of the relevant legislation, without any replacement. Draft clauses will be published as soon as possible.

### **Protecting children**

- 6.23 The Government is unwavering in its belief that gambling is for adults only. The minimum age to take part should generally be 18. This is because of the risks that children may be damaged by losses that they cannot afford and by exposure to pressures and temptations that they cannot handle. The draft Bill therefore makes it an offence for young persons (those aged 16 and 17) to gamble, and for adults to knowingly enable or permit anyone under the age of 18 to do so.
- 6.24 There will be two exceptions.
- First, for the National Lottery and other charitable lotteries the minimum age for participation will remain 16. The same minimum will apply to football pools competitions. The Government consider these forms of gambling to be relatively low risk and have not become aware of any support for a change in the law solely for the sake of consistency. There will be no minimum age limit for participation in small and private lotteries, or private and non-commercial betting and gaming.

- The only other gambling that children will be permitted to be involved in will be in playing Category D gaming machines that have a maximum stake of 10p and a maximum prize of £5 in most cases. It will be an offence to allow a child to use any other type of gaming machine.
- 6.25 As far as the employment of younger people in gambling businesses is concerned, there is obviously a balance to be struck. We do not, of course, wish children to be exposed to harmful gambling through employment, but nor do we wish to prevent young people from working in quite safe surroundings that happen to be associated in some way with a gambling operation. So, for example, there seems no reason to prevent a 17 year old from having a weekend job at a racecourse just because there is betting taking place in the ring downstairs. The draft Bill proposes, therefore, a general minimum age of 18 for employment in relation to the provision of facilities for gambling, except in relation to lotteries and football pool competitions where anyone aged 16 or over may be involved in the sale of tickets or the collection of coupons.
- 6.26 The draft Bill also provides for a number of exceptions with respect to employment on gambling premises, where there is no substantial risk to the welfare of young people, and where they are not involved in the conduct of gambling. Those aged 16 or over may be employed in a bingo club (other than those operating under a club gaming permit) and at a family entertainment centre. At betting tracks such as horse racecourses and greyhound tracks there is to be no minimum employment age to allow for, for example, young persons to be employed as jockeys or to serve refreshments. On any premises, no person under the age of 18 is to have any access to gaming machines in any category above Category D.

### **Providing help when gambling becomes a problem**

- 6.27 Some people do gamble beyond their means, eating into money that ought not to be frittered away on leisure. Fortunately, in most cases, people realise their mistake and slow down or stop for a while to get a grip on their finances. Problem gambling of this type can also continue over some time and cause individuals (and their families) serious financial problems, as well as putting relationships under stress. Needless to say, such problems have a particular impact upon children.
- 6.28 Even more serious and distressing than instances of excessive gambling that need to be brought under control, are the problems that afflict individuals who develop an addiction to gambling. At what point problem gambling evolves into compulsive or pathological gambling is a subject of much debate amongst psychiatrists, but the effects can be, without question, disastrous and overwhelming for individuals, their friends and families. Those who have suffered, even if they are then able to better control their behaviour, often report that their gambling addiction spoiled otherwise happy and successful lives.
- 6.29 The Gambling Review Body estimated the number of problem gamblers in the UK at between 275,000 and 370,000. These estimates drew upon work undertaken by the National Centre for Social Research during 2000. While international comparisons are difficult, the UK does seem to have a lower than average level of problem gambling amongst its population.

- 6.30 In its final report, the Gambling Review Body noted the absence of a substantial body of research work investigating the incidence, sociology and psychology of gambling, and recommended that such a programme be a priority. The Government endorsed the Review Body's concern to see a long term programme of research into the causes of problem gambling in Great Britain and into effective methods of counselling or treatment intervention.
- 6.31 The Government also agreed with the Review Body's recommendation that the gambling industry itself should establish and fund an independent trust to commission research into the prevention and treatment of problem gambling and to support treatment that does not engage the National Health Service.
- 6.32 Since the Government accepted this recommendation, the industry has made substantial progress. In advance of legislation, the Gambling Industry Charitable Trust has been established. In April of 2003 it agreed a strategy to achieve the aims described above. Different parts of the industry have contributed £2.3 million, making strong progress toward the target budget of £3 million per annum. The Trust has committed itself to raising £3 million each year after the Gambling Bill comes into force.
- 6.33 Substantial funds have been directed to the Trust's aims already. It has agreed, within the limit of monies raised, to:
- Fund a 24 hour national help line that will be accessible across the UK, staffed by trained counsellors;
  - Fund residential counselling for individuals with more severe gambling problems that do not infringe upon the responsibilities of the National Health Service;
  - Fund programmes of research that will clarify the causes and nature of problem gambling and seek to improve the effectiveness of prevention and support strategies;
  - Raise public awareness about the risks inherent in gambling by, amongst other initiatives, developing educational materials for use by teachers and in doctors' surgeries and citizens' advice bureaux.
- 6.34 This strong progress is to be commended. The fact that these steps have been taken in advance of modernisation of gambling law is in itself a sign of commitment.
- 6.35 The Government wishes to see progress continue. In particular it wishes every sector and every licensed gambling operator to make their contribution to the trust, and for its funding to maintain its value over the long term. In addition, the Government believes that the trust must take a robust attitude, in the light of experience, to the possible need for additional funding from the industry. £3 million per annum is a substantial commitment, but the Government and the trust should assess, in the light of experience, whether more funding might be necessary to meet fully the trust's objectives.

### **Reserve powers for a statutory levy**

- 6.36 The draft Bill includes powers for the Government to bring into being (via secondary legislation) a statutory levy on all licensed gambling operators, to be paid to the Gambling Commission on top of their annual licence fee. The Government would be required to consult with the Gambling Commission prior to the introduction of a levy, and would seek the view of the Commission on the adequacy of existing support for those suffering from gambling problems, as well as support for education and treatment.
- 6.37 The Government would prefer not to invoke these powers and thus impose a cost upon gambling operators. But its first and overriding responsibility must be to protect the interests of citizens, consumers and families and it will not hesitate to use its powers if the level of commitment from the industry is not maintained following the passage of reforming legislation.

## Chapter 7: Transition to the new arrangements

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- 7.1 It will be essential to make arrangements for the transition from the current to the new system of regulation, which are effective and do not cause unnecessary disruption and uncertainty.

### The Gambling Commission

- 7.2 The linchpin of the new system will be the Gambling Commission. The draft Bill provides for the conversion of the Gaming Board for Great Britain into the Commission to fulfil this role. The Board commands international respect for the work it now does; and the Government is confident that it provides a sound platform on which to build. At the same time it is important to note that the establishment of the Commission will not simply involve the enlargement of the Board's current responsibilities: consideration will have to be given to how the Commission is staffed and organised, and to its working methods.
- 7.3 Planning for the transition is accordingly already under way. While the planning process will obviously need to take account of the outcome of pre-legislative scrutiny of the Bill, it is also important that it continues during that scrutiny so that, subject to Parliament's approval of the provisions themselves, they may be implemented promptly. To that end the Government proposes in due course formally to designate the Board as the shadow Commission, so that the members may take forward their thinking about their requirements, procedures and, very importantly, the codes of practice and other guidance for which the Commission will be responsible. They will also have the opportunity to consult interested parties about all these matters. However, until the Bill has been enacted and the Commission appointed the Board will have no powers beyond those set out in the present legislation.
- 7.4 So far as funding of the Commission is concerned, the draft Bill will provide both for Parliament to vote grant-in-aid and for the Commission to retain licence fee income to offset those of its running costs that involve the provision of services to licensees. It is envisaged that the larger part of its income will fall into this latter category. The Government recognises the need for the Commission to incur significant start-up costs before receiving fee income with licence applications. It therefore plans to cover these costs, with Parliament's approval, through grant-in-aid, which would be recovered through Commission fees over a reasonable period.

### Licensing authority responsibilities

- 7.5 Attention is equally being paid to planning for an effective transition in respect of premises licences and a variety of permits, where local authorities in England and Wales will, under the proposals in the draft Bill, be taking on substantial new responsibilities. One of the Commission's tasks will be to consider what guidance it gives licensing authorities and the Government accordingly hopes that the shadow Commission will give a measure of priority to thinking about what it might include. In advance of that the Department is already liaising with the local government representative bodies about training and preparation. In this connection the Government would draw attention to the implementation of the

Licensing Act 2003. The similarities in licensing activities for alcohol will greatly help local authorities in England and Wales and their staff to gain practical experience before they also take on gambling functions. The draft Bill provides for the same authority committees to carry out both licensing functions. As many premises needing gambling licences also need licences under the 2003 Act there is also scope for applications to be dealt with at the same time. Licensing boards in Scotland are already responsible for licensing gambling premises.

### **Transfer of licences**

- 7.6 The Department has also been discussing with the industry and other interested bodies the arrangements under which companies licensed or otherwise authorised to provide gambling products or services under the current law should be able to switch to regulation under the provisions set out in the draft Bill. The Government recognises that these operators have expectations of business continuity; and would in any case seek to keep to a minimum the administrative and legal costs involved in renewing or extending current permissions. We have already made it clear, in our statement on casino policy, that casinos with permissions under the present legislation will be able to continue operating under the new regime, even where their table gaming area is below the new minimum size. At the same time the draft Bill sets out new responsibilities, particularly in relation to the new licensing objectives, with which all licensed operators will be expected to comply; and there can be no automatic presumption that all current activities will be allowed to continue indefinitely.
- 7.7 We intend to strike a reasonable balance between these various considerations, recognising that the transitional arrangements must provide for fair competition both as between one sector and another and as between established businesses and new entrants. To ensure the minimum disruption to competition we intend to provide for a short period during which both the old and new licence systems will run simultaneously, so applications can be made under the new system, while operations remain valid under the existing law. We are also conscious of the potentially heavy administrative burdens upon the Gambling Commission and local authorities at the crossover point. Therefore, while a 'big bang' approach, with all new licences coming into effect at the same time, has an attraction, it may be that some phasing is necessary so that the Commission can complete the work necessary.
- 7.8 The Government will continue its detailed discussions with the industry, the Gaming Board and representatives of local authorities. Provisions on transition in the draft Bill will keep the position open by allowing for different implementation dates for different categories of licence or permission.

## Chapter 8: Pre-legislative scrutiny

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### Draft Bill

- 8.1 The draft clauses published in November 2003 address all the key elements of the new regulatory regime for gambling. The clauses cover:
- Interpretation of key concepts;
  - The Gambling Commission;
  - General offences;
  - Protection of children and young persons
  - Operating licences;
  - Personal licences;
  - Operating and personal licences: appeals;
  - Premises licences;
  - Temporary use of premises;
  - Gaming machines;
  - Lotteries, and;
  - Inspection.
- 8.2 The Government will bring forward the remaining parts of the draft Bill as soon as possible. These remaining sections will address:
- Gambling on alcohol licensed premises;
  - Gambling in clubs;
  - Advertising of gambling;
  - A revised offence of cheating;
  - Prohibition of chain gifting;
  - Credit and inducements;
  - Voiding of bets;
  - Enforceability of gambling debts;
  - Travelling showmen's pleasure fairs;
  - Licensing of vessels and vehicles;
  - Commission powers to initiate prosecutions and share information through statutory 'gateways';
  - Transitional provisions, and;
  - Provisions on the Scottish Executive's powers in relation to premises licensing in Scotland, and for other arrangements in Scotland.
- 8.3 The Government will also publish draft clauses in relation to changes in the licensing and regulation of the National Lottery. The annex explains the Government's proposals in this area.

- 8.4 Wherever possible, this document has given details of all of the Government's policy proposals for the draft Bill, whether or not they are addressed in the November 2003 draft. We hope that this will assist the parliamentary scrutiny process and, in particular, enable those offering evidence to the scrutiny committee to submit a comprehensive view on all our proposals.
- 8.5 The Government may also publish a supplement to the regulatory impact assessment published alongside this document that will assess the impact on competition of the Government's proposals in relation to casinos.

### **Pre-legislative scrutiny**

- 8.6 A Joint Committee of the House of Lords and the House of Commons has been convened to scrutinise of the draft Gambling Bill. The Committee is to report to Parliament no later than 8 April 2004. The Joint Committee will seek written evidence from interested parties and will then arrange a series of oral evidence sessions. Guidance on submitting oral evidence to the Committee will be available on its website at:

[http://www.parliament.uk/parliamentary\\_committees/jcdgb.cfm](http://www.parliament.uk/parliamentary_committees/jcdgb.cfm)

- 8.7 The evidence offered to the Joint Committee, its debates and discussions will be valuable in ensuring that the legislation we finally present to Parliament takes full account of all views and delivers a flexible and modern framework for the gambling industry.

### **Public consultation**

- 8.8 In parallel with the parliamentary scrutiny process, the Department welcomes comments on the draft Gambling Bill. The consultation period will last until 28 February 2004. Written comments should be sent to:

Draft Gambling Bill Consultation  
 Gambling and National Lottery Licensing Division  
 Department for Culture, Media and Sport  
 2-4 Cockspur Street  
 London  
 SW1Y 5DH

Comments can be sent by e-mail to [gambling@culture.gov.uk](mailto:gambling@culture.gov.uk)

- 8.9 Under the code of practice on written consultations, any response may be published or made available to third parties on request. Respondents should therefore indicate clearly if they wish any part (or all) of their response to remain confidential. Unless you request otherwise, responses to the DCMS consultation will be made available to the Joint Committee.
- 8.10 If you wish to pursue a complaint about the process of consultation in this paper, please write to Simon Cooper, Strategy, Policy and Delivery Unit, Department for Culture, Media and Sport, 2-4 Cockspur Street, London, SW1Y 5DH.

## Annex: Changes to National Lottery Licensing

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### The case for change

Our National Lottery is one of the most successful lotteries in the world. It rapidly caught people's imagination and, since 1994, has raised more than £14 billion for good causes. Private sector expertise and enterprise was delivered within a framework of careful regulation that ensures propriety and protects players. Competition to operate the National Lottery lies at its heart.

After ten years and two licensing rounds, however, we cannot assume that current arrangements, successful though they are, will continue to give the best possible outcome for good causes. That is why last year the Government published a consultation document<sup>7</sup> to:

- Consider whether there might be scope to reinvigorate competition to operate the Lottery;
- Allow more companies to participate in it; and
- See whether there was scope for streamlining regulation of the Lottery without sacrificing essential safeguards.

This year, the Government published a decision document<sup>8</sup>, which concluded that we need a new approach to licensing the Lottery – to inject significantly greater competition into the licensing process. Without legislation the National Lottery Commission (NLC), as regulator, could only make limited improvements to the arrangements for selecting a National Lottery operator next time. Such changes, for example a two-stage bidding process, may not be enough to ensure that there is effective competition at the end of the current licence period in 2009.

### Summary of proposals

While the National Lottery clearly involves gambling, the unique support that it provides for good causes has led the Government to conclude that it should not be exposed to direct competition that could undermine its role. Lotteries for commercial gain will continue to be prohibited by law; and the Government remains committed to ensuring that the law should broadly maintain the National Lottery's current competitive position in relation to both commercial gambling and other lotteries.

To ensure that there is effective competition at the end of the current licence period, we propose a new approach to licensing the Lottery. This:

- Moves away from a requirement for a single major licence competition, typically every seven years;
- Strengthens the NLC as regulator;
- Provides the NLC with the ability to offer for competition a range of licences to operate different parts of the Lottery; and
- Allows for those licences to be of different duration.

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<sup>7</sup>Review of Lottery Licensing and Regulation: consultation document" June 2002.

<sup>8</sup>Review of Lottery Licensing and Regulation: decision document" July 2003.

The NLC will decide the scope of the competitions and the duration of each of the licences before the end of the current licence, held by Camelot plc. The NLC will exercise its independent judgement in making these decisions, taking account of developments in technology and market conditions.

### **Present arrangements**

The Lottery is governed by the National Lottery Acts 1993 and 1998. They provide for a lottery comprising a series of games, to be played by anyone aged 16 or more. The Acts do not prescribe the design of the Lottery: it is for companies wanting to operate the Lottery or promote games within it to develop their own proposals in accordance with the requirements of the NLC. What the Acts do is lay down the control framework within which the Lottery is to be managed.

This framework recognises four key parties:

- The Secretary of State, whose overriding duty is to ensure that the Lottery is operated properly and that players' interests are protected and subject to that, to maximise the income for good causes. The Secretary of State has the power to give directions to the NLC about how the Lottery is to be licensed, and to make regulations about how it is run.
- The NLC whose duties mirror those of the Secretary of State. The key function of the NLC is to issue and enforce licences for the operation of the Lottery. There are two kinds of licence: a single licence under section 5 of the 1993 Act, which is granted to a body corporate to operate the National Lottery; and one or more licences under section 6 of that Act, granted to bodies corporate to promote lotteries as part of the Lottery.
- The section 5 licensee: currently Camelot. The present law allows for only one section 5 licence to be issued. It is the responsibility of this licensee to provide the technical, retailing and marketing infrastructure within which section 6 licensees can operate, and to ensure that payments to prize winners, the National Lottery Distribution Fund, and the Exchequer are made.
- The section 6 licensee(s), responsible for the games. At present Camelot holds all section 6 licences.

The Acts therefore envisage that the operation of the Lottery will be in the hands of private sector companies. They provide considerable flexibility, at least in principle: there is no presumption that the section 5 and 6 licensees will be the same or different, or how many section 6 licences there will be. However, the 1993 Act provides that any prospective section 6 licensees can promote a game within the Lottery only under an agreement with the section 5 licensee.

### **Licensing changes**

We also propose a move away from a single major licence competition (typically every seven years). It proposes that the NLC should have the ability to offer for competition a range of licences to operate different parts of the Lottery. There could be, for example, not only a competition to operate the main Lotto game but also separate licence competitions for scratch cards and internet-based products. This will offer companies greater scope to deliver exciting new ideas to attract players. We will also allow the various licences to be of different duration, to take account of technological change and the different periods required for companies to make a return on their investment. The

NLC will be required to decide the scope of the competitions and the duration of each of the licences before the end of Camelot's current licence, in the light of prevailing technology and market conditions.

The Government therefore proposes to end the requirement that the NLC issue just one operator licence for the National Lottery (the section 5 licence). It follows that there would also be an end to the requirement that other companies may only participate (the section 6 licences) with the agreement of the section 5 licence holder.

The draft Bill proposes instead that NLC should be empowered – after consulting on its licensing plans – to offer a number of new-style operating licences covering different aspects of the delivery of the Lottery. Each licence will require the licensee to perform all functions and there will no longer be a distinction between section 5 and section 6 licences. This flexibility might lead to a number of different outcomes. It would, for example, enable the NLC to offer one licence for the main Lotto games and a separate licence for scratch cards. There might be a separate licence for an international Lottery draw, in which the UK Lottery joined forces with other countries' lotteries to provide large jackpots. There might also be a separate licence covering the online operation of the Lottery. At present, online operations include scratch cards on the Internet and online subscriptions to the main Lotto game. But by the time of the next licence competition, this is likely to have been extended to include online purchases of the complete range of National Lottery products and delivery of products through interactive television and mobile telephony. Such a licence would allow companies with particular experience of online delivery and marketing to compete successfully for a licence.

These are just examples of how new arrangements might work. Decisions do not need to be made now about which approach offers the best combination of efficiency, innovation and sales appeal: this will require an assessment by the NLC, nearer the time, after carrying out research, talking to potential bidders and suppliers, assessing the state of available technologies and carrying out a full consultation.

The NLC would have the ability to offer licences of different duration. Where significant investment is required and the technology is broadly stable, a longer licence period might be adopted. On the other hand, where the licence is for an area where there is rapid technological change or where the investment required of the licensee is less significant, a shorter licence period might be considered. The NLC would be required to reach a view on the potential market for the Lottery based on conditions prevailing at the time.

However, it will be important to maintain the unity of the Lottery, in terms both of its operation and its public image. There will be competition for different licences; but once selected the licence holders may have to make their distribution and information systems accessible to each other. And there will have to be, as now, common branding. It will be the NLC's responsibility to set and enforce licence conditions that ensure that everyone pulls in the same direction. In the context of the National Lottery, competition should not mean that once there are separate licences held by separate companies each must try to decrease the sales income of the others; and the NLC will have ways of ensuring that operators have incentives to grow the whole business.

Although the NLC will have the ability to issue a range of licences for different parts of the National Lottery operation, this does not preclude the possibility of a single operator securing more than one licence through open competition. Nor does the proposed legislation preclude the NLC negotiating arrangements with the existing operator for the handover of existing systems and equipment. This step does not require legislation, and can be achieved through an agreed variation to the existing operator's licence (the section 5 licence).

Paragraphs 6.36-6.37 of this document dealt with providing help for those for whom gambling becomes a problem and outlined the reserve powers which the draft Bill proposes the Government should have to bring into being (via secondary legislation) a statutory levy on all licensed gambling operators. To allow the National Lottery to be put in a similar position, we propose that should a statutory levy be introduced for gambling operators regulated by the new Gambling Commission, a statutory levy should be considered for holders of new style National Lottery operating licences. The Government would be required to consult with the National Lottery Commission prior to the introduction of any levy.

### **Machinery of regulation changes**

The draft Bill provides that the NLC be retained as regulator of the National Lottery. Nevertheless, the changes to the licensing of National Lottery operators proposed in the draft Bill will have a significant impact on the work of the NLC. Instead of undertaking one very large competition periodically (typically every seven years), it is likely to have a more regular programme of competitions. This will increase its need to maintain a continuous review of the market and worldwide developments in lotteries.

The Government has confidence in the ability of the NLC to take on its new responsibilities; but the draft Bill introduces changes to the way the NLC is organised to strengthen its position. The changes include:

- Offering greater flexibility in the number of Commissioners;
- Ending the requirement that the Chair rotates at least annually. Instead the draft Bill includes provision for the Secretary of State to appoint a Chair for a fixed period. This will give greater stability and certainty;
- Provision for the Chief Executive of the NLC and one other executive to be appointed as Commissioners. This is in line with general business practice.

Although the National Lottery will be separately regulated, the NLC will be expected to work closely with the new Gambling Commission on areas of common interest, especially the protection of children and the vulnerable, and, beyond that, operate broadly in line with proposals for the regulation of other types of gambling.

## Conclusion

The changes proposed in the draft Bill will meet the Government's intention to introduce greater competition into the operation of the Lottery by allowing a wider range of companies to participate. It will also offer the opportunity for companies of varying sizes and with different specialisations, including not-for-profit companies, to participate – although the most important consideration will remain to maximise the overall amount the operators are able to raise for good causes.

Department for Culture, Media and Sport  
November 2003