



DEPARTMENT FOR CULTURE, MEDIA AND SPORT

DRAFT GAMBLING BILL

Government Response to
the First Report of the Joint Committee on
the Draft Gambling Bill (Regional Casinos)
Session 2003-2004

*Presented to Parliament by the
Secretary of State for Culture, Media and Sport
by Command of Her Majesty
September 2004*

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INTRODUCTION

This is the Government's response to the House of Commons and House of Lords Joint Committee's report on the draft Gambling Bill (Regional Casinos), published on 15 July 2004.

Recommendations and Government response

1. While further work is needed to resolve the conflicting objectives of the Department for Culture, Media and Sport and the Office of the Deputy Prime Minister we do not believe that this should delay the introduction of the Bill to Parliament. We maintain the view expressed in our original report that the legislation is necessary and urgent and urge the Department of Culture, Media and Sport and the Office of the Deputy Prime Minister to work together to resolve the outstanding issues at the earliest opportunity. (Paragraph 5)

The Government welcomes the Committee's view that legislation is necessary and urgent.

The Government does not accept that the two Departments have conflicting objectives. They are responsible for different regulatory regimes in respect of gambling and land use planning. These regimes serve different purposes. The licensing system seeks to protect the vulnerable, keep gambling crime-free and ensure that gambling is conducted in a fair and open way. The planning system seeks to create sustainable communities and deliver sustainable development. Those bringing forward casino proposals need to satisfy the requirements of both legislative frameworks.

The Government's approach to gambling combines an effective licensing regime, which will secure protection of the vulnerable, with clear planning guidance, which will ensure that new, regionally significant casino developments deliver optimum tourism and regeneration benefits. The Departments are working closely to ensure that these frameworks work well together.

2. We expect regional casinos to be large scale entertainment complexes offering gambling alongside a wide range of non-gambling facilities. This concept is not adequately captured by the current classification. We therefore recommend that the Department considers an alternative name for this category of casino, which more accurately conveys the nature of such developments. The Committee is minded to suggest that the term leisure destination casino more suitably describes the Government's proposals and reflects the Committee's thinking. (Paragraph 15)

The Government has considered the Committee's view but believes that "regional" is a better classification than "leisure destination", bearing in mind casinos of all sizes may be leisure destinations.

3. We recommend that the minimum total customer area for regional/leisure destination casinos is increased to 7,500m². This will consist of a minimum table gaming area of 1,000m², a minimum additional gambling area of 2,500m² and a minimum non-gambling area of 4,000m². We would expect the non-gambling areas to include leisure and entertainment facilities, consistent with guidance set by the Gambling Commission. We believe that the minimum gambling area is adequate to accommodate 1,250 gaming machines; a gambling area greater than the proposed minimum does not justify increasing the cap on the number of gaming machines. We therefore do not believe it is necessary to increase the maximum number of Category A machines a regional/leisure destination casino is permitted. (Paragraph 24)

4. We believe that increasing the minimum total size for a regional/leisure destination casino will increase the size of the investment required to create such a facility, which in turn may limit the likely number of regional/leisure destination casinos to somewhere around 20 to 25. We believe that it is appropriate to have fewer regional/leisure destination casinos than has been suggested by some of the evidence we have received. (Paragraph 25)

5. We do not feel that the proposed minimum non-gambling area is large enough to accommodate suitable leisure, sports, arts and cultural facilities. As we discuss in more detail above, we recommend that the non-gambling area for regional/leisure destination casinos is increased to a minimum of 4,000m² in order to accommodate the entertainment and cultural facilities necessary to provide an overall leisure experience. (Paragraph 28)

The response provides the Government's view on recommendations 3, 4 and 5.

The Government welcomes the agreement by the Committee for the proposed size of the minimum gambling areas and the cap of 1250 gaming machines.

The Government has considered with care the Committee's recommendation that the minimum size of the non-gambling area in a regional casino should be 4000m², but has concluded that it would add regulatory burden without any increase in protection for the vulnerable.

The purpose of the non-gambling area is regulatory: it will provide consumers with an easily accessible area where they can take breaks from gambling, and consider if they wish to resume playing. The Government believes that 1500m² is a reasonable minimum requirement for operators in providing this customer space. The Gambling Commission will address what constitutes appropriate facilities for these areas in its guidance to local authorities.

If operators decide of their own volition to provide more than 1500m² of non-gambling areas, they are obviously free to do this. The bars, restaurants and other leisure, cultural or sporting facilities that will make up the non-gambling customer areas will be commercial enterprises run for profit. It is likely that at least some will choose to do so in order to provide the most attractive overall customer offer in a competitive leisure environment.

The Government does not agree that increasing the minimum non-gambling area will necessarily restrict the number of casinos which the market will ultimately sustain. Estimates of the number of regional casinos likely to be developed are necessarily speculative.

6. We support the Government's proposals to allow children into the non-gambling area of regional/leisure destination casinos, provided that there are appropriate barriers and a suitable distance between the gambling and non-gambling areas. To do otherwise would limit the potential for regional/leisure destination casinos to develop as all-round facilities, offering entertainment and leisure facilities to those who do not wish to gamble, including families, as well as those who do. (Paragraph 33)

The Government welcomes this recommendation.

7. We do not believe that children should be permitted into the non-gambling areas of small and large casinos as these will be too small to offer the range of facilities available in the non-gambling area of a regional/leisure destination casino and to ensure that a suitable distance can be maintained from the gambling area. (Paragraph 34)

The Government accepts this recommendation.

8. We recommend that the primary responsibility for enforcing the separation of the gambling and non-gambling area should rest with the Gambling Commission, in line with the licensing objective to protect children and the vulnerable. We expect the Commission to work with local authorities who grant premises licences and to issue guidance setting out the kinds of non-gambling areas that are suitable for children. We so recommend. (Paragraph 37)

The Government accepts this recommendation.

Both the Gambling Commission, through the operating licence, and the local licensing authority through the premises licence, will need to co-operate on inspection and enforcement.

9. We welcome the Government's commitment to carry out a national survey of gambling participation and problem gambling prior to the implementation of the Bill but recommend that additional research is carried out into Category A machines and their potential for addiction. (Paragraph 41)

The Government agrees that research should inform a gradual and cautious approach, and accepts the recommendation that additional research into Category A machines should form part of the overall programme of research that will be needed.

10. We recommend that the Department for Culture, Media and Sport, in consultation with the Gambling Commission and the existing industry, considers an appropriate entitlement for casinos which were in operation before the 7th August 2003 (the date on which the original policy statement on casinos was published) to have a proportion of their gaming machines as Category A gaming machines. Such discussions should be informed by the outcome of the Government's revised Regulatory Impact Assessment and Competition Assessment and the agreed entitlement should be reviewed after three years, following research on the impact of Category A machines. (Paragraph 47)

11. Subject to the outcome of such research we recommend that the question of whether new small and large casinos should be entitled to have a proportion of their gaming machines as Category A machines is also reviewed. We recommend that this review should consider allowing new small and large casinos to have a proportion of their gaming machines entitlements as Category A machines if they build up a good record in respect of social responsibility over a period of, say, three years. (Paragraph 48)

This response provides the Government's view on recommendations 10, 11 and 16.

The Government's policy is to limit the accessibility of Category A machines by initially allowing them only in regional casinos. These unlimited prize machines are new to the UK, and there is no reliable evidence as to the impact of these machines. Clearly there are risks and the Government believes it is right to proceed cautiously with effective and rigorous monitoring of their impact.

The Committee's proposal, if accepted, would increase the number of locations with Category A machines by 127 in addition to new regional casinos. The Government thinks that it is right to proceed more cautiously than this and to limit Category A machines to regional casinos in the first instance.

Entitlement to machines for all premises will be kept under review, but as part of its precautionary approach, the Government is minded to await the results of at least two prevalence studies, after the implementation of the new regime, before considering significant alteration to the gaming machine entitlements of all types of casinos.

12. We do not understand the logic of reducing the minimum number of gaming tables, whilst maintaining the minimum table gaming area for small and large casinos. We recommend that the Department for Culture, Media and Sport consults the industry to consider more appropriate minimum gaming table requirements, which allow the industry reasonable flexibility but which also avoid the risk of a proliferation of new very small casinos. 500m² is thought sufficient to accommodate 20 tables and 1,000m², 40 tables. These were the minimum number of tables required under the Government's previous proposals. As a large casino would need only 30 gaming tables to secure the permitted maximum of 150 gaming machines, it is unlikely that any large casinos would have as many as 40 tables. (Paragraph 49)

The Government has deliberately chosen to use the minimum gaming table area to protect against proliferation of very small casinos. This is clear and straightforward to define and leaves operators to decide using their business judgement how many and what type of gaming tables to provide. The Government believes that the minimum size for new small casinos of 500m² of table gaming areas is sufficient to prevent more proliferation. We will specify the ratios between tables and machines to ensure a proper balance between table games and gaming machines in small and large casinos.

13. The Committee believes that there are valid competition issues arising from the significant changes to the Government's original proposals that must be given due consideration before the debate is concluded. We therefore recommend that the Department for Culture, Media and Sport undertakes full revisions of its Regulatory Impact Assessment and Competition Assessments without delay. (Paragraph 53)

The Government accepts this recommendation. Work on the Regulatory Impact Assessment and Competition Assessment is ongoing. They will be published soon.

14. Category A machines remain untested on the UK market. The Government's proposals for regional/leisure destination casinos to have up to 1,250 Category A machines allow for a major expansion in the number of gaming machines in the UK. Given the uncertainties about the possible impact that Category A machines may have on problem gambling we welcome the Government's cautious approach and do not believe that an increase in the maximum cap for regional/leisure destination casinos is justified. We so recommend. (Paragraph 56)

The Government welcomes the Committee's support for the cautious approach adopted towards the availability of Category A machines in regional casinos.

15. We welcome this provision and recommend that the Gambling Commission, in consultation with the Department for Culture, Media and Sport and the gambling industry, develop a schedule of varying stakes and prizes for Category B machines in different gambling premises. Specifically, we suggest that there is a strong case for substantially increasing the maximum stake and prize limits for Category B machines located in casinos. (Paragraph 64)

The Government accepts that it is right that different stake and prize limits should apply in different gambling premises.

When the Government publishes the Bill, it will provide a schedule of machine stakes and prizes for all categories of machines and these will continue to be under review. Category B machines in particular will be subject to review (in respect of what are now Fixed Odds Betting Terminals) in the light of the forthcoming independent research into FOBTs which has been commissioned by the Association of British Bookmakers and other evidence.

16. We recommend that the maximum number of gaming machines permitted in small and large casinos should be reviewed by the Gambling Commission three years after Royal Assent and that appropriate recommendations should be made to the Secretary of State for Culture, Media and Sport. (Paragraph 65)

See the Government's response to recommendation 11 above.

17. We strongly urge the Government to rethink its policy in this area [planning for regional/leisure destination casinos] and to pay proper regard to the evidence given to this Committee about how best to secure the Department for Culture, Media and Sport's policy objectives for casino developments which this Committee supports. (Paragraph 69)

The Committee describes DCMS' policy objectives as protecting the vulnerable and securing the regeneration benefits associated with major casino developments (Paragraph 68).

The Government's objective of protecting the vulnerable is a matter for the Gambling Commission and licensing authorities in the first instance and the new licensing regime is designed to achieve this objective.

On the question of the Government's objective of securing regeneration benefits associated with major casino development, we have made it clear that it is for Regional Planning Bodies (RPBs), where they consider it appropriate, to identify suitable locations within the region that would optimise their contribution to tourism and regeneration. Where RPBs wish to set out policies, or indicate broad locations, for regionally significant leisure uses, these proposals will be taken forward as part of the Regional Spatial Strategy (RSS). Government guidance is already being taken forward by the regions. For example, in the North West, the North West Development Development Agency, the North West Regional Assembly and the Government Office for the North West are commissioning research to assess the likely demand for casinos in the region.

The Government believes that restricting opportunities to gamble does not mean locating casinos in inaccessible or remote locations. Government policy is to locate major generators of travel demand, such as major leisure developments, in areas that are highly accessible and well served by public transport. Consistent with the sequential approach to site selection for such developments, we would expect all town centre options (including the extension of the centre) to be thoroughly assessed before less central sites were considered. Site selection will also need to take into account a range of other material considerations, including the suitability of the site and the area for the proposed development. That is why it is right for the identification of individual sites to be undertaken locally, in a way consistent with the RSS, rather than directly through national guidance.

18. While we acknowledge the Government's reluctance to publish national guidance relating specifically to regional/leisure destination casinos, we believe that it could help to ensure a consistent approach between regional authorities and avoid the need for applications to be called in for determination by the First Secretary of State. (Paragraph 75)

The Government accepts that national planning policy guidance should, where it is appropriate, deal with casinos. PPG6, PPG13 and the two joint statements already provide a comprehensive policy framework. The Government does not consider that a separate national planning policy statement on casinos is required. However, we are currently finalising PPS6, and as part of that exercise will consider whether there is scope to clarify and develop the policy in respect of casinos and to make reference to casinos in the Good Practice Guidance to accompany PPS6.

The Secretary of State may require any planning application to be referred to him for decision. The policy of the Secretary of State in recent years has been to be very selective about calling in applications. He will, in general, only take this step if issues of more than local importance are involved. Such cases may include, for example, those which in his opinion:¹

- may conflict with national policies on important matters;
- could have significant effects beyond their immediate locality;
- give rise to substantial regional or national controversy;
- raise significant architectural and urban design issues; or
- may involve the interests of national security or of foreign Governments.

Each casino proposal, which is notified or otherwise drawn to the attention of the Secretary of State, will be considered in the light of the Government's call in policy and the particular circumstances of the case.

¹ 16 June 1999, the Minister for the Regions, Regeneration and Planning (Richard Caborn M.P.)

19. The Committee is disappointed with the lack of policy coherence in this area and has grave concerns about locating regional/leisure destination casinos in areas in close proximity to where people live and work. While we accept that planning policy is established in line with the Office of the Deputy Prime Minister's wider objectives, we believe that the overriding objective of the Government's proposals in this area should be that of controlling the access to Category A machines by limiting the number of premises that can have them and ensuring, so far as possible, that they are not located in close proximity to residential properties. (Paragraph 84)

20. While we strongly believe that regional/leisure destination casinos should be large scale leisure complexes with ancillary entertainment and cultural facilities we are concerned about the potential for regional/leisure destination casinos to develop alongside housing. Given the concerns about the impact "convenient" and "casual" gambling can have on problem gambling, we do not believe it is appropriate for regional/leisure destination casino developments to contain provision for housing. We so recommend. (Paragraph 85)

This recommendation provides the Government's view on recommendations 19 and 20.

The Committee's concerns about controlling access to gambling, particularly access to Category A machines, are best addressed through the licensing system. As set out in our response to recommendation 17, the Government believes that restricting opportunities to gamble does not mean locating casinos in inaccessible or remote locations.

As part of its commitment to creating sustainable communities, the Government is concerned to ensure that efficient use is made of land within centres and elsewhere. It therefore encourages higher density, multistorey development within and around existing centres. Housing will be an important element in most mixed use, multistorey developments. However, given the likely intensity of activity at regionally significant casinos, for example, in terms of hours of opening and number of trips attracted, careful consideration will need to be given to the impact of the casino on any proposed residential development within the development as a whole and any existing residential areas nearby. What will be appropriate on a particular site will depend on a range of considerations, including the characteristics of the site and the area. Local planning authorities will need to take into account the siting of various uses within a development, the relationship of these uses with one another and the impact the development has on its neighbourhood. If there are genuine planning concerns about the development and its impact on the surrounding area, they may be sufficient to merit the local planning authority refusing planning permission.

21. The Committee believes there is merit in the suggestion to make all casinos sui generis. We believe that this is particularly relevant in respect of regional/leisure destination casinos. Categorising regional/leisure destination casinos in a separate Use Class will prevent existing premises within the D2 Use Class, including other casinos below the minimum size threshold for regional/leisure destination casinos, from converting to regional/leisure destination casinos without the need for planning permission. This means that regional/leisure destination casinos would not be able to develop without achieving new planning permission and therefore meeting planning obligations. Having a separate Use Class for regional/leisure destination casinos will also help to prevent their proliferation as new developments will have to comply with the policy set out in the Regional Spatial Strategy. We therefore recommend that regional/leisure destination casinos are categorised as sui generis and that the Government consults on whether a sui generis categorisation should apply to all casinos. (Paragraph 90)

Casinos are currently classified as a D2 use because existing casinos present the same amenity issues as other uses in the D2 class.

The Government does not yet have sufficient evidence that new casinos developed after the implementation of the Gambling Bill will present substantially different land use and amenity issues to justify change to the use class. However, the Government is aware of the increasing level of concern about casinos in the new regime. Having regard to this concern and the Committee's recommendation, we have decided to initiate a review of the classification of casinos within the Use Classes Order.

If the evidence demonstrates that making a change to the classification of casinos would help to achieve the Government's objectives, then the Office of the Deputy Prime Minister (ODPM) will undertake a consultation exercise before making a final decision. In the meantime, the Government invites interested parties to submit evidence to the ODPM by 29 October 2004.

Evidence should be addressed to: Katy Collins, Planning Development Control Division, Office of the Deputy Prime Minister, 4/H1 Eland House, Bressenden Place, London, SW1E 5DU or e-mail: katy.collins@odpm.gsi.gov.uk

22. The Committee is concerned that the lack of clarity surrounding regeneration benefits could result in potential regeneration benefits being lost. This is a serious risk which needs to be addressed if regeneration benefits are going to be secured. We recommend that the Government reviews its approach to regeneration associated with regional/leisure destination casinos. (Paragraph 92)

The Government agrees that regionally significant casinos are likely to provide a major contribution to regeneration, tourism and economic development. The Government believes that regions are better placed than central government to decide what approach to regeneration they feel is most appropriate and where regeneration is most appropriate for their region. Therefore, it expects RPBs, where they deem it appropriate, to identify suitable locations in their region for such development that would optimise its contribution to these aims.

23. We recommend that Gambling Commission guidance should include advice to local authorities on identifying appropriate locations for regional/leisure destination casinos and the importance of ensuring that all planning issues are properly concluded before premises licences are granted. (Paragraph 94)

The Gambling Bill will allow the Gambling Commission to issue guidance to local authorities as to how they are to exercise their functions under the Act. The Gambling Commission will have to consult appropriately before issuing this guidance. The Government believes that it would not be right to prejudice this guidance.

The Bill will require local licensing authorities to have regard to the licensing objectives of prevention of crime, promotion of the fair and open conduct of gambling and the protection of children and other vulnerable people in carrying out their responsibilities. Proximity of incompatible uses may be a factor of relevance to local authorities in considering these objectives and something the Gambling Commission decides to include in its advice.

However, it would not be appropriate for the Gambling Commission to give guidance on planning matters, as planning objectives must be secured through the planning system.

24. The development of national guidance for Regional Planning Bodies, amongst other issues, could be addressed by a Working Group consisting of representatives of the Department for Culture, Media and Sport, the Office of the Deputy Prime Minister, the Gambling Commission, RPBs and the industry. We therefore recommend that such a Working Group, is established at the earliest possibility with the aim of concluding a planning framework for regional/leisure destination casinos which reflects the policy objectives of protecting the vulnerable and securing regeneration benefits. (Paragraph 95)

The Government is willing to set up a working group to help inform development of planning guidance for casinos. The main areas for discussion by the working group will be possible refinements of guidance about casinos in PPS6 and the Government's review of the classification of casinos within the Use Classes Order.

We agree that such a group should include officials from ODPM, DCMS and representatives from the Gambling Commission, RPBs, the industry and Regional Development Agencies. We hope to arrange a meeting of the group within the next 4–6 weeks, following consultation with stakeholders about the membership of the working group.



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