

SUMMARY OF RESPONSES TO THE GAMBLING ACT 2005 CONSULTATION ON PERSONAL LICENSING – TRANSITIONAL ARRANGEMENTS

Transitional arrangements for personal licences

Summary of consultee responses

There is broad agreement that the proposed special transitional arrangements for personal licences are reasonable and flexible:-

- a) to allow existing operational and management staff who already hold certificates issued by the Commission under section 19 of the Gaming Act 1968 to continue to have effect after the 2005 Act comes into force on 1st September 2007 until 31st December 2009; and
- b) for those people who wish to obtain a first personal certificate/personal licence to begin operating in the run up to 1st September 2007.

However, respondents are concerned about costs to the industry of converting existing certificates, the payment of five yearly maintenance fees and have sought clarification on a number of points of detail.

Government response

The Government is pleased that nearly all respondents welcome the proposed transitional arrangements to the new licensing regime and see them as a reasonable and flexible approach after the 2005 Act comes into force on 1st September 2007. None of the respondents raised any fundamental objection to the proposals and therefore the Government has decided to make regulations (as set out in the consultation document) and for these to come into effect from 1st January 2007.

On others points raised:-

a) In order to deliver the licensing objectives the Commission needs to undertake general and specific risk-based monitoring, compliance and enforcement functions in relation to personal licences. This can only be done efficiently and effectively if it keeps its registers of personal licence holders up to date, including reflecting any moves made by personal licensees to jobs with different operators or at different premises and any individuals who drop out of the industry - since there is no requirement to notify the Commission in advance or at the time of any such changes. This, periodic integrity checks and the recording of any information on individuals that is required to be passed to the Commission by operating licence holders are important if the Commission is to ensure that existing personal licence holders remain of the same calibre as new entrants over time and the Commission is to have good knowledge of the number and location of the individuals to whom it has granted a personal licence. The Government believes that it is reasonable to deliver the funding for these regulatory functions through a periodic maintenance fee paid on the fifth anniversary of the date of the issue of each personal licence. One of the purposes of personal licences is to give holders a direct stake in supporting the licensing objectives of the 2005 Act by seeking to ensure the personal integrity of each licensee in respect of the gambling service he/she provides - this in turn should enhance the confidence of customers and other stakeholders. To that end, the Government believes that it is important for the Commission (as a national regulator for Great Britain) to hold up to date information on personal licence holders in the form of an up to date central register. For all these reasons it is considered reasonable to charge a fee and the Government believe that this is most cost-effectively achieved through a requirement to pay a five-yearly maintenance fee to the Commission, which thus provides a mechanism for licence holders to contribute towards the compliance and monitoring costs of the Commission while they remain in the industry. However, the payment of maintenance fees and the effectiveness of keeping a central register will be kept under review;

b) The Government rejects the contention that this maintenance fee is a renewal process through the back door. A renewal leads to a licence coming to an end, and each individual being required to reapply for the necessary permission afresh. In this case, the only step required to maintain the licence for the next years is the payment of a fee, to allow the Commission to receive funding for the activities it must perform in relation to personal licensing. The Commission may also from time to time seek updated information from a personal license holder, but the Government believes it is entirely consistent with the scheme of the Act, and does not render personal licences "time-limited" in the sense of a renewal process;

c) On the amount of the fees, these will be reviewed over time, and there is no reason in principal for the annual fee to be maintained at the same level as the application fee. For 2007-8, the Commission model produced these figures, which for the present are the same. The Government does not agree that this renders the fees unlawful;

d) The 2005 Act does not contain any mechanism for treating an applicant for a licence (whether operating or personal) as if he has been granted that licence, pending determination. This is a change from aspects of the current law. In dealing with the transitional arrangements for obtaining new licences, the decision has been taken to allow for continuation rights, provided that an application has been made before a given deadline. In this case, the deadline is 2 months before 1st September 2007, which represents a reasonable time-frame for the processing of an application. Therefore, provided an applicant for a PML applies before 30th June, he may operate as a PML holder after the Act comes into force on 1st September, even if the Commission has not yet determined his application. A person remains free to apply after 30th June for a PML, and the Commission will be able to grant that licence before 1st September if it processes the application in time. However, there are no legal guarantees for the applicant in these circumstances. It is considered that no unfairness arises from this state of affairs because 2 months is the period which is expected to be taken up in considering any application for a PML, especially by a new entrant to the industry. At this stage in the new licensing regime, it is likely that applications by existing holders would require a similar turnaround period but we expect the Gambling Commission will make an effort to treat any such applications with due priority, if received shortly after the 30th June cut-off date and if there is a prospect of a hiatus in an individual's licensing status. The Government accordingly has no plans to amend this approach.

e) Individuals may only hold one personal licence but a personal licence may authorise the performance of more than function, including activities in both the non-remote and remote sectors. Under the 2005 Act, there is a distinction between remote and non-remote operating licences, meaning that they cannot be combined in one licence. That is not the case for personal licences.

Summary of other consultee responses

One response about the Welsh language.

Government response

The Government will ask the Gambling Commission to consider this point and to ensure that they follow the Welsh language scheme that is being prepared..

LIST OF RESPONDENTS TO PERSONAL LICENCES CONSULTATION DOCUMENT

1. A&S Leisure Group Ltd
2. Association of British Bookmakers
3. BACTA
4. Bingo Association
5. Betfair
6. Business In Sport and Leisure Ltd
7. British Casino Association
8. British Holiday and Home Parks Association
9. Carlton Bingo
10. Gala Coral Group
11. Kerzner International
12. Lawyers' Christian Fellowship
13. Methodist Church
14. Racecourse Association Ltd
15. Racecourse Promoters Association
16. Rank Group
17. Remote Gambling Association
18. Responsible Gambling Solutions Ltd
19. Transport & General Workers Union
20. Welsh Language Board