

GAMBLING ACT 2005

(Report by Head of Administration)

1. Introduction

- 1.1 The Gambling Act 2005, comprising 362 sections and 18 schedules received Royal Assent in April 2005. Current expectations are that the Act will be brought fully into effect on 1st September 2007 and that licensing authorities will begin to accept applications for licences from 31st January 2007.
- 1.2 The Act represents a further major transfer of functions to local authorities, with the Council becoming responsible for the licensing of various forms of gambling that currently are dealt with by the magistrates courts. Other aspects of gambling will be regulated by the Gambling Commission which in October 2006 superseded the Gaming Board. The Act requires the Gambling Commission to issue guidance to licensing authorities on the manner in which and the principles to be applied in exercising their functions under the Act.

2. Consultation

- 2.1 The guidance is being issued in three parts for consultation. The Commission have now published the first draft of the whole guidance but the document concentrates on matters that are primarily intended to assist licensing authorities on the development and preparation of local statements of premises licensing policy. A further document to be issued before Easter 2006 will concentrate on guidance on licensing authorities' responsibilities in relation to society lotteries. A third document to be published in summer 2006 will concentrate on the compliance and enforcement responsibilities of licensing authorities. A further version of the first two sections will be published by May 2006, incorporating any changes as a result of the consultation, to enable licensing authorities to finalise their statements of licensing policy.
- 2.2 Codes of practice will be issued by the Commission later in the year which will also be subject to consultation, as will a host of draft regulations to be issued by the Department for Culture, Media and Sport.

3. Comparisons with the Licensing Act 2003

- 3.1 The Gambling Act applies many of the principles introduced by the Licensing Act but with some of the more problematic aspects of the latter legislation having been resolved. For example, under the Gambling Act, the licensing authority also becomes a responsible authority which allows more discretion in the way that applications are dealt with and licences reviewed. Annex A of the guidance lists the key differences between the two pieces of legislation and is attached for information.
- 3.2 Procedurally, the Gambling Act builds upon the concept of the Council as the licensing authority and, subject to a small number of functions that are reserved to full Council, the Licensing Committee (as opposed to the Licensing and Protection Panel) will become responsible for decisions to be

taken under the Act, with hearings by sub committees in appropriate circumstances.

4. Licensing Objectives

4.1 The Act contains three licensing objectives which underpin the functions that the Commission and licensing authorities will perform and which are central to the new regulatory regime created by the Act -

- preventing gambling from being a source of crime or disorder, being associated with crime or disorder, or being used to support crime;
- ensuring that gambling is conducted in a fair and open way; and
- protecting children and other vulnerable persons from being harmed or exploited by gambling.

4.2 The Act provides for licensing authorities to aim to permit the use of premises for gambling in so far as they think it reasonably consistent with the licensing objectives, in accordance with the Commission's guidance and any relevant code of practice and the authority's statement of licensing policy.

5. Licensing Responsibilities

5.1 The Act creates three elements for the licensing of gambling. The Commission will be responsible for the issue of operating and personal licences for commercial gambling operators and personnel working in the industry. Licensing authorities will have new powers to license gambling premises, as well as undertaking functions in relation to lower stake gaming machines. The Act also creates a new system of temporary use notices (not dissimilar to temporary events notices) for premises used for certain types of gambling for limited periods.

5.2 The Council's responsibilities as a licensing authority are summarised below -

- the licensing of premises for gambling activities, including casinos, bingo, betting including tracks and premises used by betting intermediaries, adult gaming centres (for category B3, C and D machines), and family entertainment centres (for category C and D machines or category D machines only);
- considering notices for the temporary use of premises for gambling;
- the grant of permits for gaming and gaming machines in clubs;
- regulating gaming and gaming machines in premises licensed for the supply of alcohol;
- granting permits for prize gaming;
- considering occasional use notices for betting at tracks;
- registering small societies' lotteries; and
- monitoring the gambling that occurs at travelling fairs within the area.

5.3 A table is attached (as Annex 2) showing the proposed maxima for gaming machines in licensed premises, together with the proposed maximum stake and prize for the different categories of machine (Annex 3). Comments are invited on the maxima proposed.

6. Statement of Licensing Policy

6.1 In preparing the statement of licensing policy which will last for 3 years unless changed within that time, the authority must have regard to the Commission's guidance upon which comments are invited. It is proposed that the following issues should be addressed and reflected in the statement -

- a statement of the three licensing objectives;
- the fact that applications must be determined on merit without regard to demand;
- a summary of the matters contained in the statement, the area to which it applies, and listing the persons consulted in preparing the statement;
- the principles to be applied in designating a competent body to advise on the protection of children from harm;
- the principles to be adopted in determining whether a person is an interested person in relation to a licence;
- the principles to be adopted in terms of inspections and the institution of criminal proceedings;
- factors to be taken into account in determining applications;
- a statement as to whether a resolution has been made not to issue casino licences;
- how information will be exchanged with other regulatory bodies;
- a statement of principles for applicant suitability for FEC permits or prize gaming permits; and
- a declaration that regard has been had to the statutory guidance in producing the statement.

6.2 Additional information also needs to be made available by the authority either in the statement or by other means as part of a communications strategy on the availability of public registers, fees, the application process, a list of responsible authorities and their contact details, how representations can be made, how application can be made for licences to be reviewed and how functions will be delegated by the authority. With regard to the latter, a table of suggested delegations is attached as Annex 4.

7. Funding

7.1 Money has been made available through the Revenue Support Grant in both 2004/05 and 2005/06 for the start up costs associated with gambling premises licensing. The Government envisages that these should address the cost of training for councillors and staff, staff and recruitment costs (where additional staff are required), additional hardware and software requirements, transfer of records from magistrates courts and the production of the statement of licensing policy.

7.2 The ongoing costs of the new responsibilities should be met by initial application and annual fees for premises licences and fees for permits and other permissions. Fees for premises licences will be set via a series of bands with a prescribed maximum in each. Licensing authorities will be free to set their own fees within the band maxima, limited to cost recovery. Certain high performing authorities (envisaged to be those with a CPA excellent rating) will be free to set their own fees, but again limited to cost recovery. Fees for permits and other services will be set by the Secretary of State.

8. Conclusion

8.1 The Act represents a further transfer of functions to the Council in its role as the licensing authority. Guidance, codes of practice and regulations will be issued throughout the forthcoming year for comment with the first applications expected in January 2007. Prior to that, the authority will need to consult on and publish the statement of licensing policy which is likely to have to take place in the forthcoming summer.

8.2 The Committee will be consulted where time and the schedule of meetings permit on the various documents to be issued. With regard to the guidance issued to date by the Commission, there are no particular issues upon which it is suggested that comment is made (other than clarification on the maximum stake for category B2 gaming machines), unless there are matters that the Committee wish to raise.

9 The Committee are

RECOMMENDED

to determine whether any comments should be made to the Gambling Commission on the first draft of their guidance to licensing authorities.

Background Papers

Gambling Commission Guidance to Licensing Authorities – Consultation Document, December 2005

Contact Person

R Reeves
Head of Administration
014810 388003