

GAMBLING ACT – CONSULTATION DOCUMENTS
(Report by the Head of administration)

1. INTRODUCTION

In advance of the implementation of the Gambling Act 2005, the government has issued a series of consultation documents and draft statutory instruments upon which comments have been invited. These are summarised in this report.

2. CONSULTATION

The following documents have been issued for comment –

- a) draft Categories of Gaming Machine Regulations and consultation document;
- b) Premises Licences Hearings consultation document;
- c) draft Premises Licences Regulations and consultation document;
- d) Premises Licences: Mandatory and Default Conditions consultation document; and
- e) Definition of Small-Scale Operator Exemption consultation document

These represent only part of the consultation to be undertaken by the DCMS and the Gambling Commission before the implementation of the Act and, although the date for the first receipt of applications by authorities has now been put back by 3 months to 30th April 2006, the timescale for all of the necessary procedures to be in place is looking increasingly tight. In addition, no indication has yet been received in respect of fee levels.

2.1 Categories of Gaming Machines

The DCMS are not proposing any change to their recent announcement on gaming machine categories which were included in the draft statement of principles which the Council has issued for consultation. No comment is therefore suggested on the proposed categories.

Useful tables are attached as Annexes A and B which show the locations and numbers permitted by gaming machine category in each type of licensable premise.

2.2 Premises Licences Hearings

The DCMS had the choice of adopting the hearings regulations introduced for the Licensing Act or compiling new regulations for the Gambling Act. They have concluded that the former would be too confusing and therefore suggested new regulations for gambling

hearings. This will provide an opportunity to avoid some of the difficulties experienced with licensing hearings but it will mean separate arrangements for use in gambling hearings which Sub Committee members will have to familiarise themselves with.

The draft regulations suggest that 10 days notice should be given of a hearing but do not specify how soon a hearing must be held after the close of a consultation period. The change is welcome and will avoid some of the scheduling difficulties experienced with licensing hearings.

Two questions that arose with licensing still are not addressed in the gambling hearings procedure. The draft regulations require an applicant and all of the parties who submitted representations to receive copies of all of those representations but remain silent as to how to deal with the situation when interested parties ask for their names to be withheld. Secondly, although the draft regulations make provision for a hearing to be dispensed with if all parties agree, it does not indicate how that application should then be determined, as this cannot be undertaken by officers once representations have been received.

A useful addition is the proposal that a licensing authority can extend any of the time limits in the regulations where they consider this necessary in the public interest.

The suggested timescale for hearings is set out in Annex C attached.

2.3 Premises Licences Regulations

These regulations deal only with premises licences and do not apply to unlicensed family entertainment centres, permits and notices that are also covered by the Act.

The draft regulations specify the suggested format for application forms and plans, the procedure for applying for and determining applications and the subsequent notification processes. For the purposes of consistency within the gambling industry, the DCMS propose that application forms, notices and licences be standardised and they have listed a total of 21 various forms for use in licensing premises. This is considerably more prescriptive than the Licensing Act where only application forms and plans were defined. That said, it will avoid the necessity for each authority to design forms individually.

As opposed to an applicant being required to send copies of the application form to all responsible authorities, the regulations propose that they should receive only a copy of the public notice from the applicant. If the responsible authority then requires further details, this will need to be obtained from the licensing authority. As some of the responsible authorities form part of the District Council, the regulations further propose that the application and notices be sent to a central point in the authority and are then distributed internally. Although the process suggested will reduce costs for applicants and responsible authorities, it will increase work for the licensing authority which should be borne in mind when fee levels are determined.

The DCMS also propose to designate an additional responsible authority for the protection of vulnerable people, which will be the subject of a further consultation paper.

The Act requires a register of premises licences to be retained by a licensing authority, with the DCMS proposing to prescribe the minimum requirements to be held in the register to provide some local flexibility for authorities. The DCMS also propose that a licensing authority update the Gambling Commission on licences issued, suspended, revoked etc., as well as when a hearing is to be held or a review carried out. In the absence of information to the contrary, it is difficult to envisage why the Commission needs to be aware of hearings and reviews and it is suggested that the DCMS be recommended to delete this requirement.

The DCMS intend to introduce arrangements for 'grandfather rights' for existing licence holders under which new premises licences would automatically be issued by licensing authorities as long as no variations were sought to licence conditions.

2.4 Premises Licences: Mandatory and Default Conditions

The Licensing Act contains only 3 mandatory conditions and licensing authorities are not permitted to adopt standard conditions for all licences. In contrast, the Mandatory and Default Conditions Regulations propose 43 separate conditions, in addition to any that might be imposed by a licensing authority in furtherance of the licensing objectives. The suggested conditions are listed at Annex D, broken down into the various types of premises licence permitted by the Act, of which the following are of particular interest.

There is no provision for mandatory or default conditions for door supervision. Bearing in mind the need for local flexibility to achieve the licensing objectives, this is to be welcomed.

At present, there are varying restrictions on opening hours for premises licensed for gambling and these often can only be controlled by planning conditions or byelaws. The DCMS propose default hours for various forms of premises licence as set out in the Annex but excluding AGCs and licensed FECs. Times could then be amended by a licensing authority in furtherance of one or more of the licensing objectives. Given the attitude of the DCMS to unrestricted opening times under the Licensing Act, it is difficult to appreciate the need for default timings for gambling. If the times can be amended to achieve the licensing objectives, it would be easier to leave this to local flexibility in the first instance. It is suggested that the use of default conditions in relation to times when gambling is permitted be opposed.

2.5 Definition of Small-Scale Operator Exemption

This consultation document deals primarily with personal licences and is of greater relevance to the Gambling Commission.

3 CONCLUSION

The documents referred to in this report form part of a series of consultation papers and regulations leading to the implementation of the Gambling Act. Although lessons have been learnt from the Licensing Act, the scope of the Gambling Act is broader and, in some respects, more complex. With the date for the first applications now only some 6 months away, the timescale is becoming a matter of some

concern if the necessary procedures are to be in place and the necessary software delivered and tested in sufficient time.

4 RECOMMENDATION

The Committee are invited to comment upon the draft consultation documents referred to above and in the annexes attached and to endorse the views expressed in the report.

BACKGROUND DOCUMENTS

CONSULTATION PAPERS REFERRED TO IN THIS REPORT

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