EXPLANATORY MEMORANDUM TO

THE GAMBLING ACT 2005 (MANDATORY AND DEFAULT CONDITIONS) (ENGLAND AND WALES) REGULATIONS 2007

2007 No. [XXXX]

1. This explanatory memorandum has been prepared by the Department for Culture, Media and Sport and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 These regulations prescribe the mandatory and default conditions which will attach to gambling premises licences issued by licensing authorities under Part 8 of the Gambling Act 2005 (the Act). The Regulations prescribe conditions which shall apply generally to all premises licences, conditions that shall apply to a particular type of premises (e.g. casinos, betting, bingo etc), and conditions which shall apply to a particular type of licence in specified circumstances (e.g. a converted track premises licence in respect of horse-race courses).

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Background

4.1 These draft regulations are being proposed as part of the implementation of the Act. They are the first use of these powers.

4.2 The Act establishes a new system for the regulation of all gambling in Great Britain, other than the National Lottery and spread betting. It repeals the Betting, Gaming and Lotteries Act 1963, the Gaming Act 1968 and the Lotteries and Amusements Act 1976. The Act introduces a new regulator for gambling, the Gambling Commission, and a new licensing regime for commercial gambling. As part of the new licensing regime, the Act provides for three main types of licence. Operating and personal licences which are issued by the Gambling Commission and premises licences which are issued by licensing authorities.

4.3 Part 8 of the Act sets out the provisions relating to premises licences. It describes the functions of licensing authorities to licence gambling premises in their area, the various types of premises licence that may be obtained and the procedure for application. It sets out the powers for licensing authorities and the Secretary of State or Scottish Ministers to attach conditions to licences. There are provisions on the duration, transfer, variation and review of licences, and the mechanism by which appeals may be made. There are also provisions relating to provisional statements for gambling premises that the applicant expects to occupy, to be constructed or to be

altered. In England and Wales licensing authorities are local authorities, and in Scotland they are licensing boards.

4.4 Licensing authorities will issue premises licences for all premises used for commercial gambling including casinos, betting, bingo, Adult Gaming Centres and Family Entertainment Centres. It will be an offence to use premises for such a purpose without a premises licence (which can only be issued to a person who holds a valid operating licence). Any gambling operator wishing to provide premises-based gambling must apply to their licensing authority for a premises licence.

4.5 Part 8 of the Act provides for three types of conditions that can be attached to premises licences. Mandatory and default conditions which are imposed by the Secretary of State, and individual conditions which are imposed by licensing authorities. In addition, there are conditions imposed by the Act.

4.6 Mandatory conditions can be attached generally to all premises licences, or may be attached to all premises licences of a particular type, or to a particular type of premises under certain specified circumstances. Once mandatory conditions are attached they can only be removed by further regulations made by the Secretary of State. A licensing authority has no power to remove or vary them.

4.7 Default conditions are attached to premises licences in the same way as mandatory conditions, but they can be amended or removed by licensing authorities. Default conditions shall apply to a licence unless the licensing authority decides to exclude them, in which case the authority can impose alternative conditions relating to the same matter. These powers can apply to all premises licences, or class of licence, or to licences in specified circumstances

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4.8 In addition, licensing authorities have powers to set individual conditions for a premises licence when the licence is granted. In doing so they may impose a condition on a licence, or exclude default conditions.

4.9 The Act requires a mandatory condition to be imposed on casino premises licences in relation to equipment used for playing automated games of chance. An example of this is a roulette wheel which is wholly mechanised and works without the need for any croupier to rotate the wheel, spin the ball or accept stakes. The condition to be imposed relates to the number of player positions that may be provided for use of this equipment. A commitment was given in the House of Lords during the passage of the Act through Parliament that casinos should be permitted no more than 40 player positions in respect of wholly automated casino games (Hansard Volume Number 671 Part Number 62 Column 850).

4.10 In addition, the Act provides a number of discretionary powers for imposing mandatory or default conditions in relation to particular sectors or activities.

4.11 These Regulations prescribe the mandatory and default conditions that will be attached to premises licences issued by licensing authorities.

5. Territorial Extent and Application

5.1 This instrument applies to England and Wales.

6. European Convention on Human Rights

Richard Caborn has made the following statement regarding Human Rights:

In my view the provisions of the Gambling Act 2005 Mandatory and Default Conditions (England and Wales) Regulations 2007 are compatible with the Convention rights.

7. Policy background

7.1 The Act establishes a new system for the regulation of gambling in Great Britain. It enshrines three licensing objectives:

(i) to prevent gambling from being a source of crime of disorder, being associated with crime or disorder of being used to support crime;
(ii) to ensure that gambling is conducted in a fair and open way and
(iii) to protect children and other vulnerable persons from being harmed or exploited by gambling.

7.2 The suite of mandatory and default conditions set out in these regulations are designed to ensure that the licensing objectives are delivered effectively at all gambling premises. Some of these replicate provisions in the previous legislation. Others aim to ensure that the new regional casino and the other new casinos are designed in a way that supports the new licensing objectives.

Mandatory Conditions

Limits on automated table games

7.3 The Act requires mandatory conditions to be prescribed for casino premises licences imposing **limits on automated table games**. These are automated versions of casino games which would be gaming machines but for Section 235(2)(i) which exempts equipment of this sort from the wider gaming machine definition. The Act states that these limits may in particular operate by reference to the number of players that these machines are designed to accommodate. Ministers announced during the Gambling Act second reading debate in the Lords that the maximum number of automated table game player positions in a casino will be 40. The Department also proposed a condition of a minimum of four player positions for any individual automated table game, however it is now thought more appropriate that the latter requirement be imposed as a mandatory operating licence condition.

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ATMs

7.4 Under current guidelines **ATMs** in casinos and bingo premises must be positioned so that a customer has to physically leave the gaming table or machine in order to use them. The Department considered this to be an important safeguard which allows people some time to reflect away from the gambling facilities, before they are

tempted to gamble money which they might not be able to afford. The Department considered this should be preserved and extended to other gambling premises where ATMs might be sited. The Department developed its approach to this during the informal consultation and proposed a condition which required ATMs to be located in a position which requires a customer to cease gambling in order to use them.

Betting Machines

7.5 **Betting machines (also known as bet receipt terminals)** are used on tracks and in licensed betting shops. They may also be installed in the 17 new casinos which will be able to offer betting. The Department considered whether there should be a condition limiting the number of betting positions at betting machines. Like automated table games, betting machines lack the direct human intervention of a betting counter staffed by a cashier, who may be able to spot the warning signs of problem gambling. In addition, there is a risk that casinos might install unlimited numbers of betting machines which could undermine the nature of the assessment of the social impact of the new casinos. Against this background, the Department has concluded that there should be a condition which limits the number of betting positions in casinos.

Access between gambling premises

7.6 The Act provides that, except in the case of tracks, a single premises may not have more than one premises licence authorising a type of gambling activity. There were concerns that some unscrupulous operators might seek to circumvent this by artificially subdividing their premises and securing separate premises licences for its composite parts, which would undermine the different categories of premises licence created by the Act. The Department also wanted to ensure that there could be **no access between gambling premises** to which children have access and those to which they are prohibited from entering. We were also concerned that people who entered premises for one type of gambling should not be exposed to another, potentially harder, form of gambling. Associated with this, we wanted to ensure that operators do not circumvent the rules governing the maximum number of gaming machines of Category B and above permitted in different premises. And finally, we were determined to ensure that all gambling premises have publicly accessible entrances, and are not developed in the backrooms of other commercial premises. The department decided to address these concerns by proposing conditions which restricted the **access** between different types of gambling premises.

7.7 The Department also considered that it was necessary to replicate existing provisions relating to the separation and supervision of an over 18s area (which contains Category C machines), in premises where children and young people might be present (family entertainment centres, bingo halls which allow entry to under 18s and tracks). These require an over 18 area to be separated from the rest of the premises and for that area to be supervised. The Department regarded these requirements are essential to ensure that children and young people are not able to access these machines. In making its proposals, the Department recognised that supervision could be done either by a person present at these areas or by monitored CCTV.

Casinos

7.8 The Act establishes three new categories of **casino,** which for the first time will define casinos by reference to their size: regional; large; small. To ensure these are developed in a way which provides adequate protection for children and other vulnerable persons, the Department has proposed a range of conditions. These include establishing minimum and maximum requirements in respect of the table gaming areas in the new casinos and a minimum non-gambling area. The Government believe that providing a non-gambling area in casinos is an important way of ensuring that customers can take a break from gambling in an area where they are not exposed to any gambling facilities. The Department considers that the same regulatory argument applies to existing casinos, and has therefore also proposed to extend the requirement for a non-gambling area to all existing casinos licensed under previous legislation.

Ancillary activities

7.9 The Government's view is that the primary purpose of gambling licensed premises should be the provision of facilities for gambling. Any non-gambling activities that take place in gambling licensed premises should be ancillary to the gambling facilities offered. To achieve this, the Department proposed a number of conditions restricting the **ancillary activities** which might take place in premises which offer gambling facilities. These include the consumption of alcohol, the provision of refreshments and other hospitality, such as, the sale of newspapers in betting premises other than tracks.

Access to information

7.10 The Department recognises that it is important for anyone who enters licensed premises to have **easy access to information** which helps them understand the basis on which gambling facilities are provided. The Department concluded that information which is fundamental to the licensing objectives should be displayed prominently in gambling premises. That is information relating to relevant permissions to provide gambling facilities; the rules on children and young people's access to the premises and information on the fair and open conduct of gambling e.g. rules, charges etc as appropriate.

7.11 In our 2003 Policy Position Paper on Licensed Betting Premises the Government stated that while it accepted that Gambling Review's recommendation that **the 'five times rule'** relating to admission charges payable by bookmakers to enter a horserace track (Sections 13 and 18 of the Betting, Gaming and Lotteries Act 1963) should be abolished, we did not believe it was appropriate to immediately move to a fully commercially based admission charge for bookmakers on horserace courses. In line with this policy, we therefore proposed to replicate the **'**five times rule' replicated as a mandatory condition on betting premises licences for horserace courses in relation to the betting rings that are subject to the five times rule on 31 August 2007, including temporary betting areas. This will lapse after five years. We also considered whether it might be necessary to set a condition to prevent racecourses seeking to circumvent the 'five times' rule by increasing other costs or applying new charges beyond a reasonable level.

7.12 A **totalisator on a licensed dog track** can currently be operated only while the public are admitted to the track for the purpose of attending dog races and no other sporting events are taking place on the track; and for effecting betting transactions on dog races run on that track. The Department considered it appropriate to replicate this as a mandatory condition.

Default Conditions

7.13 The Department considered it was necessary to attach default conditions to a premises licence where a general industry or sector wide approach is desirable in order to assist national consistency, but where licensing authorities ought to be able to respond to local circumstances by altering those conditions if necessary. Having reflected on these criteria, the Department concluded that the only issue which was more appropriately dealt with by default conditions was the **hours during which facilities for gambling may be offered.**

7.14 Under the existing legislation, most gambling premises are subject to conditions which determine the hours during which facilities for gambling may be offered. The Department considered that it was important to maintain this approach but recognised that the Act introduced new safeguards which would make it possible to take a more flexible approach to gambling hours. The Department therefore proposed to set gambling hours for certain premises by default conditions. The aim was to establish industry norms while giving the operators the flexibility to apply to extend their hours, and the licensing authorities the flexibility to extend or reduce the default hours. The Department noted that arcades (which will become Adult Gaming Centres and Family Entertainment Centres under the Act) do not currently have set opening hours. It considered that it was not necessary to set default conditions for these categories of premises but that it preferred to leave the matter to be decided locally by licensing authorities on a case by case basis.

Other Issues

7.15 The Act contains discretionary powers to impose conditions relating to **recreational facilities** of a specified kind in new casinos and **door supervision**. The Department took the view that both of these were matters for the operators and licensing authorities. It noted that additional control over access to casinos by children would be afforded by the Gambling Commission's code of practice for casino operators. It therefore decided not to include conditions on these matters.

Consultation on the draft Regulations.

7.16 The Department undertook an informal consultation on the scope and detail of the proposed regulations in early 2006. It modified some its proposals as a result of that exercise and issued a formal consultation document together with the draft regulations and impact assessment on 16 August 2006. The consultation closed on 10 November 2006. The Department received 40 responses from gambling operators and gambling industry representatives, licensing authorities and their representative groups, academics, community and faith groups. A full list of those who responded is attached as an annex to this memorandum.

7.17 The Department's proposals generally received good support. The gambling industry and licensing authorities expressed concerns about how some of the proposals would work in practice. As a result, the department has amended a number of its proposals to address these concerns.

Operating Licence conditions rather than premises licence conditions

7.18 We accepted the view that responsibility for ensuring that children cannot access betting machines or other betting facilities at tracks should fall to the betting operator rather than the track operator. The track operator will hold the premises licence but will not be responsible for providing the betting facilities. We have therefore agreed with the Gambling Commission that the requirement to supervise betting machines and other betting facilities at tracks should be a condition that is attached to the operating licence rather that the premises licence.

7.19 Similarly, we have concluded the requirement that there should be a minimum of 4 player positions at automated gaming tables is an operating issue rather than a premises issue. The Department has therefore concluded that this will be regulated as an operating licence condition by the Gambling Commission rather than as a premises licence condition.

Layout of casinos

7.20 There were a range of views on the proposals for the layout of the new casinos. Some argued that these were too stringent and that the market should be allowed to make its own decisions on these matters. Others argued that they did not go far enough and that some of our proposals did not provide adequate safeguards for children and other vulnerable people. The Department has concluded therefore that on balance, its proposals for the new casinos strike the right balance and has included all its original proposals in the draft regulations.

7.21 A number of industry groups and licensing authorities suggested in response to our consultation that the smallest existing casinos would struggle to meet a 10% non-gaming area requirement. A number of suggestions were made including:

- Make this a default condition which would allow the licensing authority to relax the condition, if necessary;
- Applying the condition to existing premises with a gaming area of less than $200m^2$

7.22 Community groups argued for an increase in the non-gaming area for all casinos. On balance the Department concluded that our proposals were about right, but we recognised that physical constraints on the 23 casinos (around 16% of casinos currently operating) with gaming areas of less that $200m^2$ which would mean they would have difficulties in meeting this condition. We have therefore amended the condition to exempt those casinos with a gaming area of less that $200m^{2.}$

Access to Betting Shops from other commercial premises

7.23 We proposed a condition prohibiting access to betting premises (except from other betting premises) from other commercial premises. This replicates the current law under the Betting, Gaming and Lotteries Act 1963. Our aim was to prevent betting shops

opening up in, for example, the back of cafes. Most responses supported this proposal but the Association of British Bookmakers (ABB) and other betting operators pointed out that as drafted this would prevent access to betting shops from enclosed commercial centres such as shopping malls, railways stations, airports and motorway service stations. ABB estimate that there are some 150 betting shops in these locations at present. The Department recognised that its proposal would risk causing betting shops already located in enclosed commercial centres to close. It has therefore amended this condition to make clear that a betting shop must be accessed from the street or other betting premises. For the purposes of these regulations we have adopted a wide definition of "street" to include a public thoroughfare.

7.24 Some concerns were expressed about the proposed default hours for gambling premises. Some community and faith groups argued that the extended hours would encourage more people to gamble and that increasing the availability of gambling opportunities will lead to a rise in problem gambling. Some unions were also worried that extended hours could be detrimental to staff working in casinos and licensed betting offices. Industry representatives complained that it was inappropriate to restrict hours for the new casinos as it would deprive them of commercial opportunities. The Department saw the force of these arguments but concluded that the proposed default hours represented the right balance between giving the industry greater freedoms and maintaining a level of control. In reaching this decision the Department recognised the important role that licensing authorities would play in ensuring that the hours which gambling is on offer are appropriate for the location of a particular type of premises.

7.25 A checklist of all the mandatory and default conditions that will attach to premises licences is attached at annex A.

8. Impact

8.1 A Regulatory Impact Assessment is attached to this memorandum.

9. Contact

Frances Macleod at the Department for Culture, Media and Sport Tel: 0207-211-6353 or e-mail: frances.macleod@culture.gsi.gov.uk can answer any queries regarding the instrument.

ANNEX A

GAMBLING ACT 2005: PREMISES LICENCES: MANDATORY AND DEFAULT CONDIITONS

Mandatory Conditions

The following mandatory conditions will apply to gambling premises licences:

- National Lottery products may not be sold on the premises;
- A maximum of 40 separate player positions at wholly automated versions of real games of chance ("automated gaming tables") in any casino;
- ATMs must be positioned so that customers must cease to gamble at tables or gaming machines in order to use them, but we will not specify how this should be done in terms of distance etc.
- A maximum of 40 betting positions at betting machines to be permitted in new casinos.

Access

- There can be no direct access between one premises licensed under the Gambling Act 2005 and another premises licensed under the Gambling Act 2005 with the following exceptions:

    (i) between bingo premises and alcohol licensed premises / clubs with a club gaming or club gaming machine permit / family entertainment centres (FECs) and tracks;
    (ii) between tracks and alcohol licensed premises / clubs with a club gaming or club gaming machine permit / (FECs) / betting premises and bingo premises;
    (iii) between FECs and alcohol licensed premises / bingo halls / clubs with club gaming or club gaming machine permit and tracks;

- Over 18 areas within FECs and bingo halls that admit U18s must be separated by a barrier with notices displayed prominently stating that U18s are not allowed in that area and with adequate supervision in place to ensure that children and young people are not able to access these areas or the Category B or C machines. Supervision may be done either by placing the terminals within the line of sight of an official of the betting operator or via monitored CCTV.
- The principal entrance to a casino should be from the street (defined as any bridge, road, lane, footway, subway, square, court, alley or passage (including passages through enclosed premises such as shopping malls) whether a thoroughfare or not;
- There should be no access to a casino from a premises wholly or mainly used by children and young people;
- The gambling area of the regional casino should not be capable of being seen from any part of the premises to which children or young people have access;
- There should be no access to a betting premises from another premises which undertakes a commercial activity (except from other premises with a betting premises licence including tracks). In addition, the entrance to a betting shop should be from the street (defined as any bridge, road, lane, footway, subway, square, court, alley or passage (including passages through enclosed premises such as shopping malls) whether a thoroughfare or not;

Layout of New Casinos

- Casinos must provide the following minimum table gaming area:
  - small casino: a minimum of 500m$^{2;}$
  - large casino: a minimum of 1000m$^{2;}$
  - regional casinos: a minimum of 1000m^{2}
- Only table gaming may take place in the table gaming areas of a casinos;
- No area counting towards the minimum table gaming area may comprise less than 12.5% of the total minimum table gaming area for that category of casino;
- No other gambling facilities may be situated within 2 metres of any ordinary table game;
- For the purposes of these conditions, table games are defined as:
  - ordinary table games – i.e. gaming tables which facilitate the playing of casino games i.e. card games, dice games, roulette etc;
  - tables operated by employees but on which customers places stakes on automated terminals;
  - wholly automated tables of the sort permitted by virtue of section 235(2)(i) of the Act.

The following minimum non-gambling areas must be offered:

- Regional casinos – 1500m$^{2;;}$
- Large casinos – 500m$^{2;}$
- Small casinos – 250m^{2}

- No gambling facilities may be offered in the non-gambling areas;
- The non-gambling area may consist of one or more areas;
- The area must be readily available to customers (i.e. offices, kitchen areas, staff areas will not count);
- The area must include recreational facilities for casino customers which are available for use when the casino is open; where there is more than one area each area must contain recreational facilities;
- The area may include, but should not consist exclusively of lavatories and lobby areas;

Converted casino licences

- Casinos with converted licences, and which have a gambling area of over 200m^{2}, must offer a minimum non-gambling area equivalent to at least 10% of its total gambling area.

Adult Gaming Centres (AGCs) and Family Entertainment Centres (FECs)

- The consumption of alcohol in AGCs and FECs is prohibited.

Betting Shops (other than tracks)

- No apparatus for making information or other material available in the form of sounds or visual images may be used on the licensed premises, except where the matter seen or heard is a sporting event and bets may have been affected on the premises in relation to that event. Betting operator owned TV channels will be permitted;

- No music, dancing or other entertainment is permitted;
- The consumption of alcohol is prohibited;
- The only publication that may be sold on the premises are racing periodicals or specialist betting publications;

Information to be displayed

Type of premises	**Information to be displayed in a prominent position on the premises**
All	A summary of the premises licence.
Casino	A notice displayed at all entrance to casinos (except the non-gambling area of the regional casino) stating no person under the age of 18 will be admitted. The rules of the games that are available to be played in the table gaming area and other gambling area must be displayed in that area.
Bingo	A notice stating that no person under the age of 18 can gamble on the premises. Any admission charges and the charges for playing bingo games. The rules of bingo.
AGCs	A notice stating that under 18s are prohibited from entering the premises. A notice stating that the consumption of alcohol on the premises is prohibited.
FECs	A notice stating that the consumption of alcohol on the premises is prohibited.
LBOs	A notice stating that under 18s are prohibited from entering the premises. A notice stating that the consumption of alcohol on the premises is prohibited. Clear and accessible information about the terms on which a bet may be placed.
Tracks	Clear and accessible information about the terms on which a bet may be placed. A notice at every public entrance to the premises stating that no person under the age of 18 is permitted to bet.
O18 area in FECs and bingo halls	A notice stating that under 18s are prohibited from entering this area.

Tracks

- The track operator, who will hold the premises licence, must ensure that all betting operators accepting bets on the track are properly licensed and take reasonable steps to remove unlicensed bookmakers from the track;
- The five times rule will to be attached to betting premises licences for horseracing tracks (only) in relation to the betting rings that are subject to the five times rule on 31 August 2007; this provision will lapse after 31 August 2012;
- Track operators are only permitted to make charges to betting operators who benefit from the five times rule for the reasonable operating costs incurred in respect of permitting betting to operate in the existing betting rings.;
- The totaliser on a licensed dog track can only be operated while the pubic are admitted to the track for the purpose of attending dog races and no other sporting events are taking place on the tracks; and for effecting betting transactions on dog races run on that track
- Under S182 (4) the Secretary of State will add all other sports tracks as premises to be

exempted under S182(1) from the requirement to exclude children and young people from betting areas on days when sporting events are taking place.

Default Conditions

- The following hours will apply:

Premises Type	**Gambling facilities may be not offered between these hours**
Casinos	0600 – 1200 on any day
Betting Offices	2200 – 0700 on any day
Tracks	2200 -0700 – on days when no public sporting event is taking place; No restrictions on days on which a public sporting event is taking place
Bingo Halls	0000 – 0900 – on any day. **NB**. No restrictions on access to gaming machines in bingo halls.
AGCs/FECs	No restrictions

Proposals that will be operating licence conditions rather than premises licence conditions

- A minimum of 4 player positions for any individual automated gaming tables in any casino.
- Betting machines on tracks must be supervised by the betting operator to prevent access by children and young people.
- Gambling Commission Advice to Track Owners will advise that betting track premises licence holders are expected to support the Gambling Act objectives and make every effort to ensure that children and young people are not able to access gambling facilities while on a track.

ANNEX B

List of those who responded to the consultation on the proposed mandatory and default conditions

Maldon District Council
The Institute of Licensing
tote sport
BACTA
Carlton Bingo
LACORS
Association of British Bookmakers
Arun District Council
Rank Group
British Casino Association
Federation of Racecourse Bookmakers
Ceredigion Council
CCPR
Responsible Gambling Solutions
The Racecourse Association
MGM Mirage
Professor Jim Orford, Birmingham University
Uttlesford District Council
Bourne Leisure
The Bingo Association
Sports Associations
Casinos Operators Association
Kerzner International
A and S Leisure Group
The Lawyers Christian Fellowship
Leisure Link
Business in Sport and Leisure
British Holiday and Home Parks Association
Gala Coral Group
Westminster City Council
The Evangelical Alliance
Racecourse Promoters Association
National Joint Pitch Council
The Methodist Church
The Salvation Army
Community Trade Union
Quaker Action on Alcohol and Drugs
GMB
Uttlesford District Council
British Horseracing Board

Regulatory Impact Assessment:

THE GAMBLING ACT 2005 (Mandatory and Default Conditions) (ENGLAND AND WALES) REGULATIONS 2007

Title of proposal

1.1 The Gambling Act 2005 (Mandatory and Default Conditions) (England and Wales) Regulations 2007

Purpose and intended effect

Objective

2.1 The Regulations set out a suite of mandatory and default conditions which will attach to gambling premises licences. The aim is to ensure that existing and new licensed gambling premises are managed in a way that supports the Act's three licensing objectives.

Background

2.2 The Act establishes a new system for the regulation of gambling in Great Britain. It enshrines three licensing objectives:

(iv) to prevent gambling from being a source of crime of disorder, being associated with crime or disorder of being used to support crime;
(v) to ensure that gambling is conducted in a fair and open way and
(vi) to protect children and other vulnerable persons from being harmed or exploited by gambling.

2.3 Under the Act, licensing authorities will take on responsibility for issuing gambling premises licences and for compliance and enforcement of those licences.

2.4 The Act provides for three types of conditions that can be attached to premises licences. Mandatory and default conditions which are imposed by the Secretary of State, and individual conditions which are imposed by licensing authorities. Mandatory conditions set the minimum requirements to which the licence holder must adhere. Default conditions can be amended or removed by licensing authorities on issue of a premises licence or as a result of an application for a variation or a review of the licence. These conditions are most appropriate where a general industry or sector wide approach is desirable to ensure national consistence but where licensing authorities ought to be able to respond to local circumstances as necessary.

Consultation

3.1 The Government has consulted informally and formally on these regulations. The formal consultation ran for 12 weeks from 16 August 2006 to 15 November 2006. There were 40 responses including from local authorities and their representative groups, the gambling industry representatives, community and faith groups and academics. The

Gambling Commission have also been closely involved with the formulation of these conditions.

Options

4.1 The Department considered three options:

Option 1: Not to prescribe any conditions to attach to a premises licence

4.2. This option was given some consideration. It would be the least regulatory and therefore the least costly to industry of the three options. The Department's thinking was informed, however, by the fact that the existing legislation placed a number of conditions on the way operators provide gambling facilities. These include requirements which range from measures to prevent under 18s accessing gambling facilities to the "five times rule" which limits the amount "on course" bookmakers have to pay to track owners for their pitch.

4.3. Some in the industry were keen to have some of these conditions retained. There was also widespread concern, which the Government shared, that there should be adequate safeguards in place to protect children and other vulnerable people when the Act comes into force. The Government concluded, therefore, that this option was contrary its licensing objective and so not a credible option.

Option 2: To replicate existing conditions under the current legislation only as premises licence conditions

4.3 This option had the attraction of retaining existing provisions. Industry was already obliged to implement these conditions so there would be not extra costs involved. But the Department was not convinced that these conditions alone were sufficient to achieve the new licensing objectives. The Act introduced new categories of gambling premises: regional, large and small casinos, licensed family entertainment centres and adult gaming centres. These categories of premises would not be covered by the existing conditions. Furthermore, the Government considered that it was necessary to develop a series of conditions that would attach to the new casino licences to ensure that these were developed in a socially responsible way.

4.4 The Act also introduced new requirements, for example, to limit the number of player positions at fully automated gaming tables in casinos. These needed to be managed as licence conditions. The Act also created a new regulator, the Gambling Commission, which would issue operating licences and would be able to attach conditions to an operating licence. The Government therefore concluded that maintaining the status quo would not be appropriate once the new Act came into force. This option was also rejected.

Option 3: To replicate the conditions already in place under the existing legislation together with a package of new conditions designed to underpin the new licensing objectives

4.5 As outlined above, the Government concluded that a package of existing conditions and new conditions was its preferred option. The Department worked closely with industry, community and faith groups and licensing authority representatives to establish a set of

conditions which was fair, balanced and proportionate. Existing conditions have been maintained where these clearly supported the new licensing objectives and worked well in practice. Specific provisions such as the five times rules have been preserved for a limited period to allow the relevant parts of the industry to adjust to the new arrangements.

4.6 The Government also identified a range of new conditions that it considered necessary to ensure that the new casinos were developed in accordance with the Act's objectives and requirements.

4.7 The Government also looked for opportunities to give greater freedoms to industry as part of the package. In particular, it identified that there was a case for adopting a more flexible approach to gambling hours than had been the case under existing legislation. It concluded that the hours during which gambling facilities may be offered could be extended and de-regulated – by making these default rather than mandatory conditions. This would allow licensing authorities to adjust these if local circumstances merited this. This is the Government's preferred option.

Costs and Benefits

5.1 These regulations will affect:

- approximately 400 licensing authorities in England and Wales who will have a duty to ensure compliance with the premises licence conditions;
- approximately 12,000 gambling premises which will be obliged to abide by these conditions. The main existing businesses to be affected will be:
    - around 170 casinos;
    - 700 bingo halls;
    - 2,000 arcades;
    - 9,000 betting shops, race tracks and other operators with betting permissions.

Costs

5.2. Option 2 would be cost neutral to some parts of the industry as these conditions are already in place. It is likely to adversely affect competition as the new gambling sectors would not be bound by these conditions. Option 1 would allow industry to put aside existing provisions which might involve some initial costs. It is likely to lead to inconsistent approach between gambling premises which could in turn lead to inconsistent enforcement by licensing authorities. This option would lead to a high degree of uncertainty and could affect competition. Option 3 may involve some additional costs to operators through the need to meet the licence conditions.

5.3. Licensing authorities will charge an annual fee for a gambling premises licence. This will cover the cost of inspecting licensed gambling premises to ensure compliance with these conditions. The industry will have to pay that fee and will be obliged to make any adjustments necessary to ensure that a licensed premise complies with these conditions. Bearing in mind that many of the conditions are already in place, and that the conditions attached to the new casinos can be taken into account at the design stage, the Department does not consider that these conditions will impose a significant burden on industry.

Benefits

5.4. Option 3 will ensure that all gambling premises are managed in a way which supports the new licensing objectives. The package of conditions includes safeguards which should ensure the protection of children and other vulnerable people and lead to the reduction in gambling harm. Under Option 3, industry will benefits from the certainty of having the

conditions set out in regulations, rather than leaving it to the discretion of each licensing authority to decide whether conditions are required. This ensures a consistent approach. Industry will also benefit from the increased flexibility in the opening hours which should help offset any costs associated with the premises licence conditions. Licensing authorities will also have the ability to adjust the hours or add individual licence conditions if local circumstances justify this.

5.5. Option 1 does not satisfy any of the policy aims. Although Option 2 would go some way to reducing gambling harm, if would not apply to all types of gambling premises and does not the subsidiary aims of policy to:

- Provide consistent regulation;
- Take account of local conditions; and
- Involve communities in the regulatory system.

	Option 1	Option 2	Option 3
COSTS:			
Application	0	+	+
Information	0	+	+
Administration	0	+	+
Competition Effects	-	+	++
Industry Subsidy	-	+	+
Business Uncertainty	-	+	++
BENEFITS:			
Harms Reduction	- -	-	++
Consistent Regulation	- -	+	++
Local Conditions	-	-	+
Community Involvement	0	0	+
TRANSFERS (from – , to +):			
Low cost authorities	0	+	+
High Cost authorities	0	+	+
Large businesses	-	0	+
Small businesses	-	0	+
Patrons	0	0	0

Environmental

5.6 The regulations do not impact directly on the environment.

Social

5.7 The licence conditions are designed to ensure that the social benefits in the Act are effectively delivered. They will assist in protecting young people and the vulnerable from being exploited or harmed by gambling.

Equity and Fairness

5.8 The regulations are designed to strike a balance between the need to ensure the social community interest with those of operator; the Government believes this to be the best possible approach and entirely consistent with the principles of better regulation.

Health Impact Assessment

5.9 We have assessed these regulations against the Department of Health criteria and concluded that a full health impact assessment is not necessary in this case.

Small Firms Impact Test

6.1 Trade organisations that have both large and small operators as members have been consulted. The Small Business Service (SBS) have also been consulted. The Department's objective, within the overall framework for effective regulation, is to minimise any disproportionate impact on small businesses.

6.2 The Department is satisfied that any requirement of small businesses is proportionate and fair, and will not place an undue burden on them.

Competition assessment

7.1 The Government believes the premises licence conditions will protect the interests of the community and the vulnerable without presenting barriers to competition for businesses wishing to operate in the gambling industry. The regulations will apply equally to all firms that enter the industry. Hence, they do not give advantages to existing firms in the industry and do not undermine the ability of all firms in the industry to compete and innovate. Hence, there is no need to conduct a full competition assessment of these measures.

Enforcement and Sanctions

8.1 Licensing authorities will have a duty to ensure that the premises licence conditions are being implemented fully at every licensed gambling premise. They will adopt a risk based approach to compliance and enforcement. This means they will make periodic visits to inspect licensed premises, based on the degree of risk they attach to an individual premise. The Gambling Commission will provide licensing authorities with guidance on compliance and enforcement. The Gambling Commission may also visit a licensed premise to ensure compliance with the operating licence conditions. The Gambling Commission and licensing authorities will work closely together on compliance and enforcement issues.

8.2 Failure to comply with the premises licence conditions set out in these regulations may result in loss of the relevant premises licence.

Monitoring and Review

9.1 The Department will keep the working of the mandatory and default condition regulations under review. It will liaise and consult with stakeholders.

Conclusion

10.1 The Department believes that the regulations achieve the right balance between ensuring the necessary safeguards are in place to protect children and other vulnerable people, without putting an undue burden on gambling operators, and that the regulation is proportionate to the risks.

Declaration

11.1 I have read the Regulatory Impact Assessment and I am satisfied the benefits justify the costs

Signed:
Date: