EXPLANATORY MEMORANDUM TO

THE GAMBLING (PERSONAL LICENCE FEES) (AMENDMENT) REGULATIONS 2009

2009 No. 1971

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

2. Purpose of the instrument

2.1 These Regulations amend the Gambling (Personal Licence Fees) Regulations 2006 ("the 2006 Regulations") made under the Gambling Act 2005 ("the Act"). The 2006 Regulations prescribe application, maintenance and other fees relating to personal licences issued under Part 6 of the Act.

2.2 These Regulations set new levels of fees that will be payable under the 2006 Regulations from xx August 2009. The amendments derive from proposals by the Secretary of State for Culture, Media and Sport which were the subject of a public consultation run jointly with the Gambling Commission ("the Commission") from 8th April to 23rd June 2009, entitled "Gambling Act 2005: Proposals for Gambling Commission Fees from 1 August 2009".

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

3.1 The proposed fee increases are above inflation. Personal licence fees have not increased since their introduction on 1 January 2007, and were set on the basis of initial assumptions about the costs of the Commission's regulatory workload. The Commission is required to recover these costs.

3.2 Although the Commission has introduced improved processes, its costs of administering personal record checks (in respect of Criminal Records Bureau checks for applicants based in the United Kingdom and abroad) have increased. There has also been higher than expected level of enforcement activity in respect of personal licence holders. As well as failing to cover the costs of processing applications by those based in the United Kingdom, the current fee levels are insufficient to cover the costs of assessing applicants from outside the United Kingdom, of which there has been an increasing number.

4. Legislative Context

4.1 The Act established a new system for the regulation of all gambling in England, Wales and Scotland (with very limited application to Northern Ireland), other than the National Lottery and spread betting. It introduced a unified regulator for gambling – the

Commission – and a new licensing regime for commercial gambling. The Commission licenses and regulates virtually all non-remote and remote commercial gambling in England, Wales and Scotland, including casinos, bingo, betting, amusement arcades, larger lotteries and the manufacture, supply and use of gaming machines and gambling software.

4.2 As part of the new licensing regime it introduced, the Act provides for (amongst others) operating and personal licences.

4.2.1 Operating licences. These are held by people who wish to provide facilities for commercial gambling and, in general, it is an offence to provide such facilities without an operating licence. Operating licences are issued and overseen by the Commission.

4.2.2 Personal licences. It is a condition of each operating licence (save for those held by small-scale operators, as defined in section 129 of the Act and The Gambling Act 2005 (Definition of Small-scale Operator) Regulations 2006 S.I. 2006/3266) that at least one person who holds a specified management office (as defined in section 80(5) of the Act) in relation to the operating licence must hold a personal licence. A management office is one which is responsible for the management of the gambling activities undertaken under the authority of the operating licence (e.g. a director of a company, a partner in a partnership, etc.). The Commission has discretion to require more than one such licence to be held within an operation, if it considers it necessary.

4.2.3 The Commission may also attach a further condition to an operating licence requiring that a person who performs a specified operational function (as defined in section 80(6) of the Act) must hold a personal licence. An operational function is one which enables a person to influence the outcome of gambling, receive or pay money in connection with gambling, or manufacture, supply, install etc. a gaming machine. These functions would include e.g. croupiers and cashiers.

4.3 The Act provides for personal licence fees to be payable to the Commission in a number of different circumstances, to support the Commission's regulatory activities relating to such licences. In summary, the fees relate to applications for personal licences, maintenance of personal licences and applications to vary e.g. an activity authorised by a personal licence.

4.4 The 2006 Regulations contain a number of definitions.

4.4.1 A personal management licence is a licence which authorises an individual to perform the functions of a management office (as defined in section 80(5) of the Act). A personal functional licence is a licence which does not authorise an individual to perform any function other than an operational function (as defined in section 80(6) of the Act).

4.4.2 A maintenance fee is a fee payable within 30 days of the fifth anniversary of the date on which the licence was issued and thereafter every five years within 30 days of the fifth anniversary of the date on which the licence was issued.

4.5 These Regulations make amendments to the 2006 Regulations to change fees in each of the categories at 4.3.1 and 4.3.2 above. In summary, the amendments increase (a) the application and maintenance fees for a personal management licence from £330 to £370, and (b) the application and maintenance fees for a personal functional licence from £165 to £185.

5. Territorial Extent and Application

5.1 These Regulations extend to England and Wales, and to Scotland.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- ***What is being done and why***

7.1. The Secretary of State's objective in making the 2006 Regulations and these Regulations has been, in line with HM Treasury's Managing Public Money Guide, to set fees at a level which enables full recovery of the costs of the Commission's licensing and regulatory activities, whilst ensuring fairness and value for money for the gambling industry. In 2008, the Secretary of State undertook to review fees in the light of the Commission's experience of the first full year of compliance and enforcement work with the gambling industry.

7.2. Licensing arrangements have been in place since 1st January 2007 and the Commission has been fully operational, including the compliance and enforcement arrangements, since 1st September 2007. Although it is still in the early stages, the Commission now has more information on which to assess and review its workload, costs and fees.

7.3 Personal licences are subject to a five yearly review by the Commission. The application and maintenance fees have not changed since 1st January 2007 (when the Commission's initial fee structure was introduced), but now the Commission has been able to assess and review its workload in light of experience it has identified that the current fees do not fully recover the costs involved, which the Commission is required to do. A summary of the reasons for the fee increase is contained in paragraph 3.2 above. For example, the increase in the Commission's enforcement activity included over one hundred incidents in the period from October 2007 to October 2008.

7.4 While it is important to recognise the economic conditions, ultimately, the Secretary of State has to set fees at a level that allows the proper regulation of the gambling industry. The revised fees are set at a level that allows for the full cost recovery of the Commission's costs in relation to these particular activities.

- ***Consolidation***

7.5 Not applicable. These Regulations do not consolidate any legislation. These Regulations amend the 2006 Regulations for the first time. The Department does not

intend to consolidate these instruments at this time. However, the Department will keep the position under review.

8. Consultation outcome

8.1 The consultation, which was run from 8th April to 23rd June 2009, is identified in paragraph 2.2 above. In total, 69 responses were received, including responses from the main trade associations and other interested parties. In addition, the Department and the Commission met the main trade associations at an all day fees review workshop on 29th May 2009. Overall, the consultation responses indicated that there was broad concern, in the context of proposed increases to operating licence fees, from the industry about increasing fees in the current economic climate. There was only one specific comment about the personal licence fees, that the proposed increase in the fees for a Personal Management Licence was moderate and that this proposal was endorsed.

9. Guidance

9.1 Guidance on fee categories and payment will be provided by the Commission.

10. Impact

10.1 A Final Impact Assessment is attached to this memorandum. This document has been prepared in relation to these Regulations and S.I. 2009/1837. Personal licence fees are addressed specifically at paragraphs 8,9,10, 35 & 47.

11. Regulating small business

11.1 These fees relate to individuals rather than businesses and apply equally across the gambling industry.

12. Monitoring and review

12.1 The Commission will continue to monitor and gather evidence about their regulatory costs and the gambling activities it regulates. There will be a review of the Commission's fees in 2010 but the Department does not expect that the aggregate level of fees will be changed before 2011.

13. Contact

Andrew Birleson at the Department for Culture, Media and Sport, Tel: 020 7211 6528; or e-mail: andy.birleson@culture.gsi.gov.uk can answer any queries regarding the instrument.

Final Impact Assessment

Summary: Intervention & Options

Department /Agency:DCMS /Gambling Commission	Title: Proposals for Gambling Commission Fees from August 2009	
Stage: Review	**Version: 1**	**Date: March 2009**

Related Publications: Gambling Act 2005 - Proposals for Gambling Commission Fees (DCMS, March 2008); Final Impact Assessment - Gambling Commission Fees (DCMS July 2008); Proposals for Gambling Commission Fees – Consultation Paper (DCMS, July 2006); Summary of Responses to 'Proposals for Gambling Commission Fees – Consultation Paper' (DCMS, December 2006); The Gambling (Operating Licence and Single-Machine Permit Fees) Regulations 2006 (The Stationery Office, December 2006); The Gambling (Personal Licence Fees) Regulations 2006 (The Stationery Office, December 2006).

Available to view or download at: www.culture.gov.uk

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What is the problem under consideration? Why is Government intervention necessary?

Under the Gambling Act 2005 (the Act) persons wishing to provide gambling facilities and opportunities to the public must hold a licence from the Gambling Commission (the Commission), the body responsible for regulating gambling in Great Britain. The full requirements of the Act came into effect on 1 September 2007. In line with *Managing Public Money*, [1]the Department for Culture, Media and Sport (the Department) reviews the level of licence fees annually and proposes changes if necessary. The consultation document published alongside this assessment sets out proposals to modify the fee structure with effect from 1 August 2009.

What are the policy objectives and the intended effects?

The objective of the fee structure is to enable the Commission to recover its operating costs in full while ensuring fairness and value for money in regulating the gambling industry. The principle underlying this approach is that the fee paid by licensees will reflect the resources expended by the Commission on ensuring licensees comply with the licensing objectives set out in the Act. This ensures that the industry is not subsidised by the tax payer and that one sector or class of operator does not subsidise another. Thus fee levels reflect the Commission's full operational costs, including the cost of policing the illegal sector and vary according to the sector and risk and scale of the licensee. DCMS agreed that this review should be conducted in the light of the Commission's experience of the first full year of compliance and enforcement work with the industry.

What policy options have been considered? Please justify any preferred option.

1. No change to the existing fee structure and levels. The impact of this scenario is set out in the consultation document.
2. Medium range fee increases to allow the Commission to recover its operating costs. This option is set out in the consultation document and summarised in the assessment of options in this Impact Assessment. **This is the preferred option** as, on the basis of available information, it best meets the objective of ensuring that the Commission is adequately resourced to carry out its regulatory functions while at the same time ensuring fairness for the gambling industry and paying due regard to the current economic climate.

The view was expressed in some consultation responses that the option of a fee reduction should have been considered and consulted upon and that any increases should be conditional upon the delivery of risk based arrangements reflecting the findings of the Hampton Implementation Review of the Commission. The option of reduced fees was considered, but it was not consulted upon because it was not considered to be a viable option. The consultation document highlighted activities that the Commission would have been unable to undertake, or would have needed to so on a more limited basis, if there was no fee increase and our view that this would fundamentally undermine the effectiveness of the regulatory regime. A decrease in fees could only have made this situation worse and placed the Commission in the position of not being able to fulfill its Statutory Duties. While it is important to recognise the economic conditions, ultimately, the Secretary of State has to set fees at a level that allows the proper regulation of the gambling industry.

[1] Managing Public Money, HM Treasury, July 2007

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?

The fee settlement under consultation is intended to cover 2 years and therefore the next review will be in 2011, subject to the requirement in *Managing Public Money* to review costs annually and the need to make adjustments in the light of any significant unforecast cost changes.

Ministerial sign-off

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the Minister for Sport:

Signed: Gerry Sutcliffe Date: July 2009

Summary: Analysis & Evidence

Policy Option: 2	Description: A package of modifications as set out in the consultation document and summarised in the assessment of options in this Impact Assessment.

COSTS

ANNUAL COSTS	
One-off Yr	Key monetised costs by main affected groups.
£	The increase in annual fees will increase costs to most operators (excluding around 850 of the smallest operators and society lotteries (see below)). Based on the current operators, the increase will amount to £410k in 2009/10 and £730k in a full year.
	The reduction, from 10% to 5%, in the discount available for holders of multiple licences is estimated to cost the industry £44k in 2009/10 and £78k a full year.
Average Annual Cost (excluding one-off)	The increase in fees for personal licences is estimated to cost the industry £76k in 2009/10 and £83k in a full year.
£ 891k	**Total Cost** (PV) **£ 899k**

Key non-monetised costs by main affected groups. None identified.

BENEFITS

ANNUAL BENEFITS	
One-off Yr	Key monetised benefits by main affected groups.
£	The Commission predicts that it will receive approximately 285 operator licence applications next year, all in the smallest categories. Based on the reduction of 5% on application fees the industry will save costs of £14k compared to the current fees.
	Fees for changes and variations to licences are based on application fees and will be reduced as a result of the 5% reduction in application fees. It is not possible to estimate the impact of this reduction in costs as it relates to unpredictable levels of activity.
	The freezing of annual fees for certain categories of small operator in annual fees for the smallest operators will affect 800 licensed operators, reducing costs to the industry by £11k during 2009/10 and £21k in a full year. The indexation of financially based fee bands introduced in the light of consultation feedback will reduce the costs of operators whose business would have crossed into a higher band. The impact of this change cannot be fully assessed because it depends on decisions made by operators, but, from consultation feedback, at least two operators are likely to make savings totalling in the region of £0.2m in the current year.
Average Annual Benefit (excluding one-off)	
£235k	**Total Benefit** (PV) £235k

Key Assumptions/Sensitivities/Risks

Price Base Year	Time Period Years	**Net Benefit Range** (NPV) **£**	**Net Benefit** (NPV Best estimate) **£**

What is the geographic coverage of the policy/option?				Great Britain	
On what date will the policy be implemented?				1 August 2008	
Which organisation(s) will enforce the policy?				Gambling Commission	
What is the total annual cost of enforcement for these				n/a	
Does enforcement comply with Hampton principles?				Yes	
Will implementation go beyond minimum EU				n/a	
What is the value of the proposed offsetting measure				n/a	
What is the value of changes in greenhouse gas				n/a	
Will the proposal have a significant impact on				No	
Annual cost (£-£) per organisation		**Micro - £ 75**	**Small £ 75**	**Mediu m**	**Large £ 3000**
Are any of these organisations		**No**	**No**	**No**	**No**

Impact on Admin Burdens Baseline (2005 process)					**(Increase – Decrease)**
Increase of	**£ 0**	**Decreas e of**	**£ 0**	**Net Impact**	**£ 0**

Evidence Base

What is the problem under consideration?

Summary

1. Under the Act, persons wishing to provide commercial gambling facilities and opportunities to the public must hold a licence from the Gambling Commission, the body responsible for regulating gambling in Great Britain, and thereafter pay regular fees to maintain their licences. Fee levels are set by the Secretary of State for Culture, Media and Sport so as to enable the Commission to recover its operating costs in full while at the same time ensuring fairness and value for money in regulating the gambling industry.

2. The full requirements of the Act came into effect on 1 September 2007, although operators were able to apply for licences from 1 January 2007. Following a joint consultation exercise with the Commission, DCMS set fee levels in 2006 to apply from 1 January 2007. A review was conducted in 2008 to ensure that the assumptions underlying the regime were correct and to see whether improvements might be made. No change was made to the aggregate take from fees at this stage although the burden between different operators was adjusted.

3. In the consultation paper *'Proposals for Gambling Commission Fees for August 2009'* the Commission and the Department set out proposals for modifying the fee structure with effect from 1 August 2009. This Impact Assessment looks at the impact of the proposals on the gambling industry.

Background

4. The Act put in place new arrangements for regulating gambling in Great Britain and repealed previous legislation, such as the Betting, Gaming and Lotteries Act 1963, the Gaming Act 1968 and the Lotteries and Amusements Act 1976. The Act also established the Gambling Commission as the body responsible for regulating all gambling in Great Britain,

except the National Lottery and spread betting which are regulated by the National Lottery Commission and the Financial Services Authority respectively.

5. Government policy on fees, charges and levies charged by public bodies is set out in *Managing Public Money*[2] . This states the general principle that fees should be set so as to recover the full cost of the service provided. This principle applies in the case of gambling licences even though the function of the Commission is to regulate the gambling industry in the public interest, rather than to provide a service to the industry.

6. The Commission issues two types of gambling licence: operating and personal. Both are subject to a one-off application fee. Under the fee structure in place from 1 January 2007 fees for operator licences are based on fee bands and vary according to the sector and the appropriate fee band. Fee bands are based on either:
    - number of licensed premises owned by an operator (bingo, standard betting and arcades)
    - gross gaming yield (existing casinos)
    - gross gambling yield (pool betting, betting intermediaries and remote casino, bingo and betting)
    - annual gross sales (gaming machines)
    - annual proceeds (lotteries)
    - size of premises (new casinos)
    - number of working days (limited betting – ie on-course bookmakers).

7. Operators must pay an annual fee to keep the licence. The level of annual fees is also determined by the same relevant fee band.

8. There are two categories of personal licence:
    - personal management licence – required by all persons who occupy a specified management office in respect of the holder of an operating licence
    - personal functional licence – required by those individuals who perform any function which enables them to influence the outcome of gambling or who are involved in the receiving or paying of money in connection with gambling.

9. There is a flat rate for personal licence applications, which do not have an annual fee, although a maintenance fee is payable every five years after the licence has been issued.

10. Fees are also payable to the Commission should the licence holder wish to change or vary an operating or personal licence. These fees are charged on the basis of the average effort (and therefore cost) relative to the variation.

11. Any person providing commercial gambling opportunities to the public from fixed premises, rather than remotely, will need to purchase a premises licence from the relevant local authority. Premises licences are subject to an annual fee set by the local authority. As they are not administered by the Commission, premises licences were not included in this review of licence fees and hence are not considered in this Impact Assessment.

Why is Government intervention necessary?

12. When fee levels were set in 2006 for the first year of the new regulatory regime, the DCMS and the Commission agreed to review fees annually in accordance with the requirements of Managing Public Money and in light of actual experience of licensing and compliance activity and, if necessary, to make changes. A revised fee structure was introduced with effect from 1 August 2008.

[2] *Managing Public Money* HM Treasury, July 2007

13. Following the 2008 consultation exercise, the final Impact Assessment, published in July 2008, stated that both the Department and the Commission would keep matters under review and respond promptly if evidence emerged that a revision to fee levels or the fees structure was required. After a full year of compliance and enforcement activity and regulatory costs, there is now a sufficient evidence base to require a further review.

Policy Objectives

14. The objective of this intervention is to improve the fee structure in terms of setting fee levels at a level which enables full cost recovery of the Commission's licensing and compliance activities whilst ensuring fairness and value for money in regulating the gambling industry. This is turn underpins the Commission's functions, duties and powers in pursuing its three overarching licensing objectives set out in the Act. These are:

    - 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
    - Protecting children and other vulnerable persons from being harmed or exploited by gambling.

Intended effects

15. The intended effect of this review of licence fees is to set fees at a level which enables full recovery of the Commission's proper and reasonable costs of licensing and regulatory activities, including the policing of illegal activity, whilst ensuring fairness and value for money for the gambling industry.

16. The wider intention behind the Act and the regulatory regime it put in place was to reform and update the regulation of the gambling industry and in so doing to limit gambling's potential for personal and social harm. The outcome that DCMS and the Commission are seeking, therefore, is a well-regulated and socially responsible industry.

Consultation

17. This consultation was primarily of relevance to the gambling industry and a wide range of other stakeholders who have an interest in the industry and in the proposals in the document *Proposals for Gambling Commission Fees from 1 August 2009*, published in April 2009.

18. An analysis of issues raised in representations made and information on DCMS/Commission response to those representations will be included in a consultation responses document which will be published shortly.

Assessment of the policy options

19. The assessment of policy options is determined primarily by the availability of evidence on which to base changes. As has been noted above, DCMS and the Commission agreed to review fees in 2008 to ensure that the regime was working as intended and to see whether improvements might be made. After this review only minor adjustments were made because of the limited evidence base. DCMS and the Commission now consider that there are grounds for making more far-reaching changes and, all things being equal, to hold revised fee levels until at least 2011.

20. The Commission's revenue from fees and other sources, including interest, has been significantly below the levels originally expected and will not be sufficient to cover the Commission's forecast costs of regulation. The main reasons for this are:
    - The volume of operators has not grown in line with the assumptions made following the passing of the Act, although the overall number of operators remains broadly in line with the Commission's initial assumptions and the volume of gambling has increased.
    - Some larger operators have moved all or part of their remote operations to white listed or European jurisdictions, resulting in a fall in the Commission's revenues; others have expanded the remote side of their businesses outside the UK although the social impact of the related gambling still falls within the Commission's remit.
    - The fall in interest rates has reduced the Commission's income by between £0.2m - £0.3m each year.
    - Although the Commission has made savings in its running costs and will continue to seek further savings, the Commission's costs have increased since 2006 (for example, there have been significant increases in costs for energy and travel costs during 2008/09 and staff pay has increased in line with Government pay guidelines).
    - The costs of advising on research, education and treatment are estimated to be some £0.25m per annum greater than previously estimated as the Commission has not been able to rely, as had been expected, on other bodes, including the Responsibility in Gambling Trust (RIGT) to provide the necessary input.
    - The pattern of consolidation within the industry has continued, reducing the number of operators, while the volume of gambling does not decrease.
21. In proposing its budget, the Commission has had particular regard to the current economic climate and the pressures that this places on all operators. Expenditure and resource requirements have been significantly reduced from original estimates. Nevertheless, the Commission must still ensure that it has adequate resources to deliver effective regulation as required by the Act. It is required to recover its costs and must recover those costs from those sectors where the costs fall. Two options have therefore been considered.

Options

Option 1: Do not make any changes to the current fees for operating and personal licences.

22. The Commission has held aggregate fees at 2006 levels by delivering efficiency improvements and savings. The impact of holding fees at current levels would be to require the Commission to reduce its planned spending by a further £3.7m in the three years to 2011/12. The Commission would be required to take action to reduce its deficit to zero in order to comply with the requirements of its funding agreement. These reductions would be in addition to the significant changes already included in the spending projections set out in the consultation document.

23. The impact of making such reductions would be significant and would fundamentally undermine the effectiveness of the regulatory regime at a time when the statutory objectives are likely to be under increasing pressure. The majority of the Commission's costs relate to its staff and the costs (already well below West Midland's government estate levels) of maintaining its premises in Birmingham. Whilst these costs can be reduced in the medium term there would be short-term additional costs (for example, redundancy costs for staff and the penalty conditions in the building lease).

24. A zero fee increase would mean a significant change in the Government's approach to the regulation of gambling from that which has been followed since the Act. The key changes would be:

- Reduction in staff costs across the organisation, requiring compulsory redundancies, and having a significant impact on the Commission's developing knowledge and skills base.
- The Commission would have to accept a significantly higher level of risk to the licensing objectives in order to reduce effort on compliance within the regulated sector to match reduced resources;
- There would be little or no active enforcement in the illegal sector (that will have to be done, if at all, by local authorities, which would place additional pressure on the premises licence fees);
- The Commission would be unable to monitor and respond promptly to the industry's innovation.
- The Commission would be unable to develop the efficiency of the regime as required by the Hampton Principles, for example through better working with local authorities and other enforcement agencies;
- The Commission would have to suspend developments in improvements to the regulatory regime that are potentially to the industry's advantage, for example the analysis and utilisation of regulatory return data to develop and focus regulatory and best practice efforts;
- The Commission's ability to deliver some key functions that the Department has come to rely on would be removed or, at least, seriously curtailed, for example, advice generally, the machines research programme and international remote policy;
- The Commission would not be able to enhance its compliance regime for remote operators, particularly for foreign operators;
- Development of work on betting integrity would be significantly curtailed;
- The remit given to the Strategy Board would have to be severely curtailed or postponed; and
- The likelihood, given the Commission's cost structure, that it would still end the period with a significant deficit.

25. DCMS and the Commission recognise that the current recession places particular burdens on the industry, but consider that making no changes to fees is not a viable option. A commitment was made to review the fee structure last year and evidence now exists to support changes in the fees charged to reflect the proper and realistic costs to the Commission of discharging its statutory responsibilities. In DCMS's view, the Commission could not discharge its responsibilities effectively without a fee increase. Also the purpose of the fee review is to make changes where justified by the evidence. Since there is evidence that changes are warranted, and could be implemented without undue disruption, it would be unacceptable to reject the opportunity of making improvements to the fee structure in favour of the status quo. This option is therefore rejected.

26. Consideration was also given to whether fees might be reduced. This option was also raised in the consultation process. However, it follows from the consideration of the possible impact of a zero increase described above, that a reduction in fees would have an even greater

adverse impact on the Commission's ability to deliver its statutory responsibilities. This option was therefore rejected as not being viable.

Option 2: Medium range fee increase as detailed in the consultation document and summarised in the assessment of options in this Impact Assessment.

27. This is the preferred option. Fees would be changed as follows.

Proposed changes to fees

28. The proposed changes to fees are set out in the following paragraphs. It is estimated that the impact of these increases on the Commission's income would amount to £0.57m in 2009/10 and would total £2.57m for the three years to 2011/12.

Application fees

29. The Commission has reviewed its arrangements for issuing the licences, taking particular account of the feedback from applicants to date. Combined with revised ICT arrangements, this allows the Commission to propose a reduction of 5% on all operator licence application fees. The Commission considers that this will help reduce the entry costs for businesses that are starting up in the sector.

Annual fees

30. The Commission's costs have increased across most operators since the original fee levels were set in 2006. The preferred option is, therefore, for annual fees to change as follows from 1 August 2009:
    - No increase in annual fees for general betting (limited) in categories A and B, society lottery operators in categories A, B, Fand G or the new category of general betting operators (covering betting shops with no gaming machines). We estimate that this covers 850 operators, around 20% of the total.
    - An increase of 4.75% for all other category A and B operators (except 1968 Act and 2005 Act casino operators) and all other categories of society lottery operators.
    - An increase of 6.25% for all other operators (including all casino operators in categories A and B).
31. These fee proposals would, for example, increase the cost for a small bookmaker by approximately £75 in 2009/10 and £26,090 for the largest casino operator. The revised fee tables and the impact on individual categories are set out at appendix 1 of the consultation document.

32. The Commission recognise that there are particular burdens on small businesses, but as described above, many of the smallest businesses will have their fees frozen and the proposed fees remain in line with the costs of regulating businesses. The following changes to annual fees are proposed to certain categories of small operators:
    - In the case of the smallest bookmakers, it is our view that those operators which do not have any gaming machines incur less compliance effort than those with such machines

as generally gross gaming yield is lower and the range of compliance issues narrower. A new category of fee is therefore proposed and fees for this group of operators will not increase from the level paid currently.

- In the light of our review of risk and the associated reduction in compliance effort required in accordance with the Hampton Principles, we do not propose any increases in the annual fees for category A and B general betting (limited) - ie on-course - and society lottery operators in categories A, B, F and G.
- The introduction of revised arrangements to recognise the anomalous market conditions faced by bookmakers standing at greyhound meetings staged for broadcast to the off-course betting industry, rather than to satisfy local market demand. Ways of discounting or reducing the number of days counted for fee purposes are proposed.

33. For those with multiple licences, a discount is currently given on annual fees for the second and subsequent licence. However, work shows that costs on multiple licences are not significantly less than for individual licences. The actual workload and costs for individual activities is the same and the costs of corporate reviews are higher, taking longer than originally projected and requiring more expensive staff. It is therefore proposed that this discount should be reduced from 10% to 5%.

34. During consultation, respondents drew attention to the fact that some fees are set by reference to financially based measures and that these bands had been eroded over time by the impact of inflation. This could mean that operators moved into higher fee bands as a result of inflation, rather than because of a change in the risk of their business. Two operators indicated that they might be so affected and that the change in fee bands would increase total fees payable by around £0.2m. It is not possible to identify whether other operators might be similarly affected. To address this issue, all financially based fee bandings have been increased by 10% to allow for the impact of RPI since 2006. As a result these two operators will not face increased fees as a result of this issue.

Personal licences

35. Personal licences are subject to quinquennial review by the Commission. The proposed regulations increase the costs of the application and maintenance fees for personal management and personal functional licences. These increases are necessary because, notwithstanding the improved processes put in place by the Commission, current fees, which were set in 2006 on the basis of initial assumptions on workload and costs, do not fully recover the costs involved, which the Commission is required to do. The main reasons for this are:

- The Commission's costs associated with administering personal record checks, in respect of Criminal Records Bureau checks for UK based applicants and those checks required for overseas applicants.
- Higher than expected levels of enforcement action in respect of personal licence holders (over 100 individual incidents in the period October 2007 – October 2008 for example).
- The higher than expected proportion of overseas applicants that require confirmation from referees, often needing repeat requests to obtain these.

It is therefore proposed to increase:

- The cost of an application and maintenance fee for a personal management licence from £165 to £185.
- The cost of an application and maintenance fee for a personal functional licence from £330 to £370.

Other fees

36. Charges for changes and variations are largely based on application fees and such fees will be reduced by 5% as a result of the reduction in application fees.
37. Fees for ancillary and linked licences and other miscellaneous fees will remain at current levels.

Impact of these changes

38. The impact of these fee changes would be to allow the Commission to recover its remaining start up costs by 2013/14. This would allow the Commission to continue its operations and activities at its planned, more cost effective levels. The Commission would move to break-even on its operational activities from 2011/12.

Economic impact

39 The overall impact of the changes in the preferred option would result in an estimated net increase in costs to the industry of £864k in 2010/11. This amounts to approximately 0.009% of the estimated £10bn gross gambling yield for Great Britain. This would be the first increase in the aggregate burden from fees since the fees were set in 2006. For smaller operators, it follows a reduction in annual fee levels of 10% made in 2007. The increase proposed (approximately 6% in the first full year) is below the rate of inflation for 2006 - 2009 and no further increases are expected before 2011.The break down of the overall impact is set out in the following paragraphs.

Cost reductions

40. As a result of improved efficiencies in the licensing process, the preferred option is to reduce all application fees by 5%. This is expected to be of particular assistance to new small businesses as it will reduce the costs of entry to the market. The Commission estimates that it will receive 285 applications in the next year. The proposed reduction will reduce the costs to the industry by £14k.

41. Fees and charges for changes and variations to operating licences are based on application fees. As a result, these will also fall by 5%. It is not possible to estimate the impact of this change as it relates to unpredictable levels of activity.

42 Annual fees for the smallest operators would be frozen at current levels. This reflects the relative risk assessment attributed to these operators by the Commission. The categories included are non-remote general betting (standard), no gaming machines (all categories), non-remote general betting limited (categories A and B) and society lotteries (categories A and B). Following representations made during consultation, the fees for society lotteries in categories F and G have also been frozen. The Commission estimates that this would

include over 800 operators (around 20% of total operators). This would reduce costs to the industry by £27k in 2010/11.

43. Following consultation, the fee bandings that are set on the basis of financial indicators have been indexed to reflect changes in RPI since 2006. As a result, operators benefit from higher limits to the bands. Two operators suggested that this change would mean that their fees are £0.2m lower than they would otherwise have been.

Cost increases

44. Annual fees will be increased by 4.75% for all other category A and B operators (except 1968 Act and 2005 Act casino operators) and all other categories of society lottery operators. This reflects the increases in the Commission's costs. These cost increases are lower for smaller operators because of the lower unit staff costs that are required and the relative risk of these operators. The impact of these changes would increase costs by £203k in 2010/11.

45. Annual fees for all other operators (including all casino operators in categories A and B) will be increased by 6.25%. This reflects the increases in the Commission's costs, in particular the higher unit costs of specialist staff and the technical demands placed on the Commission by larger, more complex operators. The impact of these changes would increase costs by £527k in 2010/11.

46. The discount currently applied to annual fees for holders of multiple licences will be reduced from 10% to 5 %. This is because the discount has proved not to reflect actual workload requirements in such cases. This change will increase costs by £78k in 2010/11.

47. Personal licence fees will be increased to reflect the Commission's increased costs. In particular this relates to increased costs associated with Criminal Records Bureau (CRB). It is estimated that the increases in cost from these changes will be £83k in a full year, based on 5000 personal functional licences and 500 personal management licences.

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Competition assessment

48. The Department and the Commission do not expect any significant changes in the structure of the gambling industry as a result of the proposed fee changes. The requirement is applied across all of the licensed commercial gambling industry in Great Britain, except the National Lottery and spread betting, which are regulated by other authorities.

49. A simple competition assessment of this proposal has been undertaken in accordance with Better Regulation Executive/Office of Fair Trade guidance and has concluded that a full competition assessment is unnecessary. The fees proposed reflect the regulatory costs as they relate to their licensing activities, which in turn reflect the risks and complexity posed to the statutory licensing objectives of the Commission. Thus, large complex, higher risk operations will be charged at a higher rate than smaller simpler and lower risk operations. This is because although the costs of research and design will be similar no matter what the size of the gambling operation, monitoring and enforcement costs are both likely to increase as the size, complexity and risk of the operation increases. Also the fee levels do not become an unreasonable barrier for businesses wishing to operate in the gambling industry. The proposals are designed to be fair to all sectors of the gambling industry, whilst taking into account the size and of a business within a particular sector in determining the level of fees.

50. The Act removes restrictions and statutory requirements for businesses that may act as impediments to entry. The proposed fees will in all probability be passed on to customers. They are unlikely to affect competition between firms in the same sub-sector of the industry.

51. This form of differential pricing is unlikely to affect the structure of the industry or the number or size of firms. This is because the charges will be small relative to turnover or profitability. Moreover, they will affect existing firms in the same way as new firms both in terms of set up and on-going costs.

52. The gambling sector is characterised by rapid technological change. Recent years have witnessed major changes in the mechanisation of many forms of gambling. This trend is likely to continue and is unlikely to be affected by the proposed changes. In particular, there is nothing in the changes which affects the ability of firms to choose the price, quality, range or location of their product. Indeed, the Act incorporates a high degree of regulatory flexibility making it less likely than in the past that the licensing regime itself influences the structure of the gambling industry.

53. The overall conditions of competition in the British gambling industry are unlikely to be materially affected by the proposed changes.

Small firms impact test

54. The fee structure is designed to reflect the relative risk of operators in relation to the Commission's compliance activities – higher fees reflect higher levels of compliance activity. Thus smaller operators are required to pay lower fees than larger operators since they are judged to be a lower risk., This principle of proportionate charging, which ensures fairness to smaller operators, is not affected by the proposed changes to fees.

55. The package of modifications outlined within Option 2, balances the fee structure by addressing the cost and risk anomalies which have come to light with the existing arrangements. The reduction in application fees for the small operators is justified by information available regarding the resource requirements for licensing activity. Freezing fees for the smallest operators reflects the Commission's risk and workload assessments for such operators in the light of its regulatory activity to date.

56. DCMS's and the Commission's objectives, within the overall framework for effective regulation, is to minimise any disproportionate impact on small businesses and this is reflected in these proposals. Trade organisations that have both large and small operators as members and the Department for Business Enterprise & Regulatory Reform (BERR)'s Enterprise Directorate have been consulted on the proposed changes to the fee structure.

57. Neither DCMS nor the Commission consider that the regulation will unfairly impact upon small firms or new entrants into the gambling industry. However, these changes enable the Commission to re-balance the fee structure by addressing the anomalies which have come to light with the existing arrangements. This is in accordance of the Government's commitment through BERR's Enterprise Directorate support of small businesses.

Legal aid

58. Neither the Department nor the Commission consider that the regulation will have any impact on demand for legal aid. Under the provisions of the Act, individuals are required by law to pay fees to obtain and maintain licences.

Sustainable development and environmental impact

59. Neither the Department nor the Commission consider that there are any significant environmental considerations (such as in respect of sustainable development or carbon emissions) attributable to actions taken by the industry in complying with the regulation.

Health impact

60. The changes to the Commission's fees do not in themselves have implications for health. However, the changes enable the Commission to carry out its functions effectively and do have such implications. The Commission's activities include working with partners in Government and the industry to ensure that gambling is conducted in a socially responsible way and that steps are taken to reduce problem gambling. This is a health matter to the extent that the problems associated with excessive gambling are evident not only in the finances and material well-being of those affected by it, but also in their physical and mental health.

Impact on equality and human rights

61. As a public body the Commission has specific responsibilities to promote equality and eliminate unlawful discrimination, and must assess all of its proposed policies and practices in relation to their consequences in this regard.

62. Neither the Department nor the Commission consider that the changes to the fees will have any impact on equality or human rights issues; but the Commission will provide operators with any advice and support they may need to adjust to the new fee structure.

Impact on rural areas

63. There is no reason to suppose that operators or outlets located in rural areas will be at a disadvantage from this measure. Neither the Department nor the Commission consider that the requirement will have a differential impact on rural areas.

Sectors and groups affected by the regulation

64. All sectors of the gambling industry, except the National Lottery and spread betting, are affected by the proposed regulation. This includes anyone wishing to enter the industry or to sell specialist equipment to it and the potential and actual staff employed in key roles. This numbers some 4,000 operators, varying from some of the biggest entertainment companies in Great Britain to owner/operators of single arcades and betting shops.

Future considerations

65. As the consultation document points out, it is still at the early stages of the implementation of this legislation and there are significant uncertainties for the industry, as with other sectors, in the current economic recession. As a result, the arrangements and priorities for the future are likely to change and such changes may impact differently on different sectors of the industry. For example the Commission is not yet able to predict accurately the work required to consider properly the issue of integrity in sport and its impact. Similarly in the machines area, the illegal supply and locating of machines continues to need considerable effort. In addition, recent legislation on money laundering may well result in the need for increased compliance and enforcement activity beyond that already planned.

66. Changes to technology and business models always present a challenge to the regulator to ensure that the regulation is proportionate and properly focussed and new developments

can radically change the face of the industry. Similarly there is evidence at present of a degree of consolidation among certain sectors this too may change the regulatory environment. .

Specific Impact Tests: Checklist		
Type of testing undertaken	***Results in evidence base?***	***Results annexed?***
Competition assessment	Yes	No
Small firms impact test	Yes	No
Legal aid	Yes	No
Sustainable development	Yes	No
Carbon assessment	Yes	No
Other environment	Yes	No
Health impact assessment	Yes	No
Race equality	Yes	No
Disability equality	Yes	No
Gender equality	Yes	No
Human Rights	Yes	No
Rural proofing	Yes	No