

**EXPLANATORY MEMORANDUM TO
THE GAMBLING (GEOGRAPHICAL DISTRIBUTION OF CASINO PREMISES
LICENCES) ORDER 2007**

2007 No.

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

2. Description

2.1 This instrument, which is laid before Parliament in draft for approval by resolution of each House, specifies the licensing authorities which may issue the one regional, eight large and eight small casino premises licences permitted under the Gambling Act 2005 (“the Act”). The instrument also specifies how many of each kind of premises licence issued by each licensing authority may have effect at any time.

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

3.1 None

4. Legislative Background

4.1 This instrument will be made as part of the implementation of the Act.

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. It provides for local authorities in England and Wales and licensing boards established under Scottish legislation – together called “licensing authorities” in the Act – to licence premises within their areas which are used to provide facilities for commercial gambling.

4.3 The Act also introduces a unified regulator for gambling – the Gambling Commission (“Commission”). The Commission will license and regulate virtually all commercial gambling in Great Britain, including all casinos.

4.4 The Act sets out the following three licensing objectives, which licensing authorities are required to consider in licensing premises under the Act and which the Commission is also required to pursue:

- To prevent gambling from being a source of crime and disorder;
- To ensure that gambling is conducted in a fair and open way; and
- To protect children and vulnerable persons from being harmed or exploited by gambling.

4.5 As part of the new licensing regime it introduces, the Act provides for the following three main types of licence:

4.5.1 Premises licences. These will be held by people who wish to use premises to provide facilities for commercial gaming and betting and, in general, it will be an offence to use premises for such a purpose without a premises licence. There are different kinds of premises licences for the different kinds of gambling premises (for example, casino premises licences, bingo premises licences, betting premises licences, etc.). Premises licences may only be issued to a person who holds a valid operating licence (see below). They will be issued and overseen by licensing authorities.

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

4.5.3 Personal licences. These licences will also be issued and overseen by the Gambling Commission. It will be a condition of each operating licence (save for those held by small-scale operators, as defined in the Gambling Act 2005 (Definition of Small-scale Operator) Regulations 2006 (SI 2006/3266)) that at least one person who holds a specified “management office” 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 pursuant to the operating licence (such as a director of a company, a partner in a partnership, etc.).

The Commission may also attach a further condition to an operating licence requiring a person who performs specified “operational functions” to 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. Such functions would include, for example, croupiers and cashiers.

4.6 The Act provides for three different kinds of casinos: regional, large and small and for different premises licences for each kind. Section 175 of the Act prescribes limits on the number of casino premises licences that may have effect at any time. In short, there may only be one regional, eight large and eight small casino premises licences in effect at any time.

4.7 Section 175(4) provides for the Secretary of State, after consultation with the Scottish Ministers and the National Assembly for Wales, to specify by order:

4.7.1 which licensing authorities may issue each kind of casino premises licence; and

4.7.2 the number of casino premises licences of each kind issued by each authority that may have effect at any time.

4.8 This instrument will be made by the Secretary of State under section 175(4) of the Act. Under section 355(6) of the Act, the instrument may only be made after it has been laid in Parliament in draft and approved by a resolution of each House.

5. Territorial Extent and Application

5.1 This instrument extends to Great Britain and applies to licensing authorities in England, Wales and Scotland.

6. European Convention on Human Rights

The Secretary of State for Culture, Media and Sport has made the following statement regarding Human Rights:

In my view the provisions of the Gambling (Geographical Distribution of Casino Premises Licences) Order 2007 are compatible with the Convention rights.

7. Policy background

7.1 The Act gave effect to the government's proposals for reform of the law of gambling. As noted above, it contains a new regulatory system to govern the provision of all gambling in Great Britain, other than the National Lottery and spread betting. It replaces the existing legislation that governs gambling in Great Britain: the Betting, Gaming and Lotteries Act 1963, the Gaming Act 1968, and the Lotteries and Amusements Act 1976.

7.2 Through the licensing objectives set out in section 1 (see paragraph 4.4 above), the Act places the protection of children and other vulnerable people at the heart of the regulation of gambling. All casinos – both the existing estate and the new casinos permitted by the Act – will be required to abide by new rules relating to social responsibility that are to be put in place under the Act.

7.3 The Act provides for the licensing of one regional, eight large and eight small new casinos. The new casinos will differ from existing casinos in a number of ways: they will generally be larger; they will be able to offer more gaming machines; and they will be able to offer new combinations of gambling facilities. The operators of existing casinos licensed under the Gaming Act 1968 will, like any other person, be able to apply for the 17 new casino licences. Existing operators will also be able to apply to convert their existing licences into new licences issued under the Act. Where they do so, they will retain their current entitlement to 20 jackpot gaming machines.

7.4 The limit on the number of new casino premises licences that may have effect at any time reflects the government's cautious approach to this reform. It allows the government to assess whether the introduction of new casinos leads to any increase in problem gambling. The government will also evaluate new casinos' economic and regeneration impact. A team led by Lancaster University has been appointed to advise the government on the methodology for this assessment and the intention is that the baseline work for this study will commence later this year, if Parliament approves the draft Order specifying where new casinos may be located. It is anticipated that the assessment study will not be completed until at least three years after the award of the first premises licence.

- 7.5 The government's national policy statement on casinos published in December 2004 set out the process for identifying the areas in which the new casinos would be located. In accordance with the national policy statement, the Secretary of State established an independent Casino Advisory Panel ("the Panel") in October 2005 to advise her on which licensing authorities should be permitted to issue new casino premises licences. The primary consideration for the Panel was to ensure that casino locations provide the best possible test of social impact. Subject to that, the Secretary of State also asked the Panel:
- to include areas in need of regeneration (as measured by employment and other social deprivation data) and which are likely to benefit in these terms from a new casino;
 - to ensure that those areas selected are willing to license a new casino.
- 7.6 On 31 January 2006 the Panel issued an invitation to all local authorities in England, Scotland and Wales to apply for the right to issue one or more of the 17 new casino premises licences. Around 68 local authorities initially applied, and the Panel subsequently announced a shortlist of eight candidates for the single regional casino licence, and 29 candidates for the eight large and eight small licences. It was from those shortlists that the Panel drew its recommendations.
- 7.7 The Panel ensured that the process it followed was as open and transparent as possible. It subjected all shortlisted candidates to rigorous assessment, asking local authorities and other interested parties for additional evidence where necessary. In the case of the regional casino, the Panel held public examinations of the proposals which were open to members of the public and the media to attend. The Panel invited regional bodies in England and their Scottish and Welsh equivalents to comment on the proposals, and it considered representations from industry groups, organisations concerned with problem gambling, MPs and members of the public. Further details on the consultation undertaken by the Panel are set out in its report.
- 7.8 The Panel published its report on 30 January 2007. That report explains the process the Panel followed and how it reached its conclusions. The Panel recommended that Manchester should be permitted to issue the single regional casino premises licence, and that 16 other licensing authorities should each be permitted to issue either a large or small casino premises licence.
- 7.9 Following receipt of the Panel's report, the Secretary of State consulted the Scottish Ministers and National Assembly for Wales. They agreed that the Panel's recommendations should be put to Parliament for approval.
- 7.10 After considering the Panel's report and the responses received from the devolved administrations, the Secretary of State decided to accept the Panel's recommendations and to lay before Parliament a draft Order that would, if made, give effect to those recommendations. The Secretary of State concluded that, because the Panel had engaged in a 16 month period of consultation involving licensing authorities, local people and other interested parties, further public consultation on the draft Order itself was unnecessary.

8. Impact

- 8.1 A Regulatory Impact Assessment is attached to this memorandum.
- 8.2 The impact on the public sector is as follows. The licensing authorities specified in the instrument will be entitled to issue casino premises licences. Where they choose to do so, they will be required to invite applications for those licences and, where more than one application for each licence is received, run competitions, in accordance with Part 8 of and Schedule 9 to the Act. The Act provides for the payment of a fee to a licensing authority on application for a premises licence. The Secretary of State has provided by Order for licensing authorities to determine the amount of those fees, subject to maximum fees specified in the Order (see SI 2007/479). In determining the amount of fees, licensing authorities are required by section 212(2)(d) of the Act to aim to ensure that their income from fees as nearly as possible equates to their costs. Accordingly, the fiscal impact to the specified licensing authorities of inviting applications for casino premises licences, running any competition, and issuing the licences should be neutral.

9. Contact

David Fitzgerald at the Department for Culture, Media and Sport Tel: 020 7211 6479 or e-mail: david.fitzgerald@culture.gsi.gov.uk can answer any queries regarding the instrument.

Department for Culture, Media and Sport

Regulatory Impact Assessment

1. Title of proposal

The Gambling (Geographical Distribution of Casino Premises Licences) Order 2007

2. Purpose and intended effect

Objectives

The draft Order specifies the licensing authorities that will be permitted to offer the one regional, eight large and eight small casino premises licences permitted by the Gambling Act 2005.

Background

Section 175 of the Gambling Act 2005 provides for the licensing of three new categories of casino, and imposes limits on the number of premises licences of each category that may have effect at any time. Only one regional, eight large and eight small casino premises licences will be permitted, and the government has made it clear that it will not consider allowing any further casinos until a proper assessment has been undertaken of their social and economic impact.

Section 175(4) of the Act requires the Secretary of State to make an Order determining the geographical distribution of these new casino premises licences. She is required in the Order to:

- (a) specify which licensing authorities may offer casino premises licences of a specified kind; and,
- (b) in respect of each specified authority, specify the number of casino premises licences of each kind issued by the authority that may have effect at any time.

In line with the commitments made in the government's statement of national policy on casinos published on 16 December 2004, the Secretary of State appointed an independent panel - the Casino Advisory Panel - in October 2005 under the chairmanship of Professor Stephen Crow to advise her on which licensing authorities should be authorised by her Order to issue the 17 new casino premises licences.

The primary consideration for the Panel has been to ensure that locations provide the best possible test of social impact. Subject to this, the Secretary of State also asked the Panel:

- to include areas in need of regeneration (as measured by employment and other social deprivation data) and which are likely to benefit in these terms from a new casino;
- to ensure that those areas selected are willing to license a new casino.

The Panel has been operating entirely independently of the government. On 31 January 2006, it issued an invitation to all local authorities in England, Scotland and Wales to apply for the right to issue one or more of the 17 new casino premises licences permitted by the Act. Around 68 local authorities

initially applied, and the Panel subsequently announced a shortlist of eight candidates for the one regional casino licence, and 29 candidates for the eight large and eight small licences. It is from these shortlists that the Panel has drawn its recommendations.

The Panel ensured that the process it followed was as open and transparent as possible. It has subjected all the shortlisted candidates to rigorous assessment, asking local authorities and other interested parties for additional evidence where necessary. In the case of the regional casino, this included holding public examinations of the proposals which were open to members of the public and the media to attend. The Panel invited regional bodies in England and their Scottish and Welsh equivalents to comment on the proposals, and it has considered representations from industry groups, organisations concerned with problem gambling, MPs and members of the public.

The Panel's report was published on 30 January 2007. The report sets out the process in more detail, and explains how it reached its conclusions.

The Secretary of State reported the Panel's recommendations to Parliament by an oral statement on the same day as the report was issued. She made it clear then that it was her intention to return to the House with a draft Order at the earliest opportunity. The Order is subject to the affirmative resolution procedure, requiring a debate and potentially a vote in both Houses.

Rationale for government intervention

The intention behind the Order is purely to identify which licensing authorities should be permitted to issue the one regional, eight large and eight small casino premises licences permitted by the Act.

3. Consultation

Within government

The Secretary of State is required by the Act to consult Scottish Ministers and the Welsh Assembly before making her Order. She wrote to the devolved administrations on 7 February inviting them to comment on the Panel's recommendations. They agreed that the Panel's recommendations should be put to Parliament for approval.

Public consultation

The draft Order is based on the recommendations of the Casino Advisory Panel. The Panel made its recommendations at the end of a 16 month period of consultation involving licensing authorities, local people and other interested parties. This consultation is recorded in some detail in the Panel's report.

In view of the extensive consultation that has already been undertaken on this matter, the Secretary of State concluded that no further consultation would be necessary on the draft Order itself. The Better Regulations Executive has indicated that, while this is a decision for the Secretary of State, in their view there were good arguments for not holding a three month consultation exercise on the draft Order.

4. Options

Option 1 - Do nothing

The Secretary of State is required by section 175(4) of the Act to make an Order, and so doing nothing was not a realistic option.

Option 2 - Set aside the Panel's recommendations and specify other licensing authorities in the draft Order

The Casino Advisory Panel was non-statutory, and was established by the Secretary of State purely to advise her on the exercise of her order making powers under the Act. As such she could have decided to set aside their recommendations, and specify other licensing authorities in the draft Order. However, having carefully considered the Panel's report and the views of Scottish and Welsh colleagues, the Secretary of State concluded that:

- she was satisfied that the process followed by the Panel was clear and transparent, and had resulted in robust recommendations;
- she has a responsibility to all the licensing authorities involved to ensure that the integrity of the independent process that she established was maintained; and
- it was only fair to all the authorities that she continued to abide by this process, which throughout had been clearly understood by all the parties involved.

Option 3 - Accept the Panel's recommendations

For the reasons set out under Option 2 above, the Secretary of State decided that this was her preferred option.

5. Costs and benefits

Sectors and groups affected

The only parties directly affected by this Order will be those licensing authorities included in the Order, which will now be able to run competitions for the new casino premises licences.

Benefits

The procedures that licensing authorities must follow when running competitions for the new casino premises licences are set out in Schedule 9 to the Gambling Act, and in regulations and a code of practice to be made under that Schedule. Licensing authorities will have an obligation to run the competitions for licences in a fair and open way. The procedures give licensing authorities the widest possible discretion to maximise the benefits accruing to their local area from the licensing process.

Costs

The proposed regulations will not involve any increased costs for industry.

Any costs to licensing authorities should be recovered by them through the premises licence application fees. They should be able to draw on existing internal systems which will help ensure that the costs of running the competitions for the premises licences are kept to a minimum.

6. Small firms impact test

This Order will have no particular positive or negative impact on small firms.

7. Competition assessment

A simple competition assessment has been undertaken in line with BRE/OFT guidance. This Order itself will have no direct impact on competition, as it merely allows the specified licensing authorities to issue the one regional casino, eight large and eight small casino premises licences permitted by the Act.

It is important to note that the government's wider casino policy is likely to have an impact on competition. The new casinos permitted by the Act will be different to existing casinos in this country. The Gambling Act permits the new casinos to offer a higher number of gaming machines; the regional casino will be permitted to offer unlimited stake and prize gaming machines; the new casinos will be permitted to offer facilities for betting; and, the regional and large casinos will be permitted to offer bingo.

For these reasons, and in response to widespread concerns in Parliament and among the public, the government decided to take a cautious approach to the development of these new casinos, and only allow a limited number of new casinos to be licensed, while a proper assessment could be undertaken of their social and economic impact.

The operators of existing casinos licensed under the Gaming Act 1968 will be able to apply for the 17 new casino licences like anyone else. Alternatively, they will be able to apply to convert their existing licences into new licences under the Gambling Act. Where they do so, they will retain their current gaming machine entitlement, which was doubled to 20 jackpot machines in October 2005.

The government concluded that to permit around 140 existing casino the same gaming rights as the new casinos permitted by the Act would expose the public to an unacceptable and unquantifiable social risk, and undermine the nature of the assessment of the social impact of the new casinos to which they are committed.

A full assessment of the impact on competition in the casino industry was included in the RIA that accompanied the Gambling Act 2005.

8. Enforcement, sanctions and monitoring

The licensing authorities specified in the Order will be responsible for monitoring any new casino they license, to

ensure that the new casinos abide by all the conditions of their premises licence. These conditions will include strict requirements designed to prevent children entering casinos or the gambling area of the regional casino, and to protect other vulnerable people who may be at risk from problem gambling.

The Gambling Commission has a general responsibility under the Gambling Act 2005 to advise licensing authorities on the exercise of their functions under the Act. It is also responsible for monitoring compliance by operators with all the requirements of casino operating licences.

The Gambling Commission and licensing authorities have extensive powers to enter premises for inspection purposes. They also have available to them a range of regulatory sanctions and may bring prosecutions.

9. Implementation and delivery plan

Once the draft Order specifying the 17 licensing authorities permitted to issue the new casino premises licences has been approved by Parliament, the Department plans to liaise with those authorities through a new casino network which LACORS proposes to establish. This will provide a forum for the authorities concerned to discuss issues of common interest relating to the conduct of the competitions for the new casino premises licences, and resolve issues with the Department.

10. Post-implementation review

The government is committed to making an assessment of the social and economic impact of the new casinos before considering whether any further casinos will be permitted. A group of academics led by Lancaster University has been commissioned to advise on the methodology for that assessment. The baseline study will be undertaken later this year, once Parliament has approved the draft Order, so that a proper assessment of changes in the pattern of gambling can be made. The assessment process will be in place in good time for the opening of the first new casino. The assessment will not be made until at least three years after the award of the first licence.

11. Health impact assessment

Under current Department of Health guidelines, the Order identifying the licensing authorities that may issue the one regional, eight large and eight small casino premises licences permitted by the Gambling Act 2005 does not require a full health impact assessment.

Concerns about potential health problems that might arise from this Order centre on the possible increase in problem gambling that might result. The rate of problem gambling in Great Britain is believed to be relatively low by international standards - some 0.6% of the population. This prevalence rate was measured in a 1999 study which is currently being repeated. Nevertheless, more partial studies conducted in 2004 and 2005 broadly confirmed this low level of problem gambling among British adults.

It is unlikely that this Order in itself, or the 17 new casinos that will be capable of being licensed if Parliament approves this Order, will significantly increase the rate of problem gambling among British adults. The licensing of 17 new casinos nationally, in addition to the 139 casinos already operating and the many other gambling opportunities already available to people (including betting shops, bingo halls, arcades, pubs, clubs, remote gambling etc), is unlikely to have a significant impact on public health. Indeed, the total number of gambling machines which can be housed in all 17 of the new casinos throughout Great Britain will be less than the number currently found in a single large casino of the type found in Las Vegas or Atlantic City.

In any case, the new casinos will be subject to strict new requirements in terms of social responsibility based upon evidence of the risks faced by gamblers. These will include requirements to make available to customers information about responsible gaming and where to find help for gambling problems, and to have in place procedures for monitoring for the signs of problem gambling and taking action where appropriate. These new requirements are likely to reduce the potential for adverse health impacts both in the new and existing casinos.

Taken together, these factors mean that we do not consider that the Order will have a significant direct or indirect impact on public health, lifestyle related variables or that it will lead to a significant increased demand on health and social services. Hence, there is no need for a full Health Impact Assessment to be produced in this case.

Notwithstanding the fact that a full health impact is not required in this case, we have considered carefully the three key questions posed in the Department of Health guidance:

A. Are the potential positive and/or negative health and well-being impacts likely to affect specific sub groups disproportionately compared with the whole population?

There is no convincing evidence currently that problem gambling is significantly more prevalent in some sub-sections of the adult population than in others. There is, by contrast, clear evidence that problem gambling is significantly more prevalent among under 16s than among adults with 3.6% of this group classed as problem gamblers in 2005/06. There is also evidence that even higher rates of prevalence among adolescents are to be found in particular localities. However, this sub-group will not be affected by the section 175(4) Order. Children will be prohibited from entering the small and large casinos altogether, and, in the case of the regional casino, will be prohibited from entering the gambling area or any part of the non-gambling area from where the gambling area is visible. Casino operators will be required to have in place strict procedures to check the ages of potentially underage customers, and will be liable to criminal prosecution and other sanctions if children are permitted to enter any areas from which they are barred.

B. Are the potential positive and/or negative health and well-being effects likely to cause changes in contacts with health

and/or care services, quality of life, disability or death rates?

For the reasons noted above, we do not anticipate that the licensing of the new casinos is likely to result in significant new contacts with health and care services. However, the government is currently preparing to monitor the impact of the new casinos on problem gambling and other social and economic factors which may conceivably impact on the public's health. No earlier than three years after the award of the first premises licence, the government will make an assessment of whether the introduction of the new types of casino on a small scale has led to an increase in problem gambling or is increasing that risk. It would then be for Parliament to decide, in light of the evidence, whether or not more casinos should be permitted.

C. Are there likely to be public or community concerns about potential health impacts of this policy change?

The government recognises that there are going to be public concerns about the potential health impacts of the new casinos. The government listened carefully to these concerns during the passage of the Gambling Bill through Parliament, and this resulted in the adoption of the cautious, risk-based approach to the new casinos reflected in the Gambling Act.

Indeed, these real concerns underpinned the government's decision to appoint an independent panel to advise it on the areas where the new casino should be located. The Casino Advisory Panel invited any local authority that was interested in licensing a new casino to make an application. The Panel asked all applicants to provide an assessment of the potential social impacts of a new casino in their area (both positive and negative) and what policies and infrastructure were in place to deal with any potential negative consequences. The Panel consulted widely with key stakeholders and members of the public on all the applications. Local people will have a further opportunity to give their views through the licensing process for the new casinos.

Finally, it is also important to note that for the first time licensing authorities have been given the power to resolve not to license a new casino in their area if they don't want one, and they have been given the widest possible discretion to pass such a resolution.

12. Summary and recommendation

Option 1 (do nothing) is not available under the Act and, therefore, the costs and benefits of it have not been analysed. The costs to licensing authorities of options 2 and 3 are likely to be relatively similar: in either case the same number of licensing authorities would be required to run competitions for casino premises licences. Option 3 would have the additional benefit of maintaining the integrity of the independent Panel process which the Secretary of State has put in place, and on the basis of which licensing authorities have acted up until now.

Accordingly, the Secretary of State's preferred option is option 3. This option is preferred because:

- the Secretary of State is satisfied that the process followed by the Panel was clear and transparent, and had resulted in robust recommendations;

- the Secretary of State has a responsibility to all the licensing authorities involved to ensure that the integrity of the independent process that she established was maintained; and
- it is only fair to all the authorities that she continued to abide by this process, which throughout had been clearly understood by all the parties involved.

13. Contact point

David Fitzgerald
Head of Gaming and Lotteries
Department for Culture Media and Sport
2 - 4 Cockspur Street
London
SW1Y 5DH

david.fitzgerald@culture.gsi.gov.uk
Tel: 020 7211 6479

14. Declaration and Publication

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

Tessa Jowell
2007
Secretary of State for Culture, Media and Sport