

**EXPLANATORY MEMORANDUM TO
THE GAMBLING ACT 2005 (EXCLUSION OF CHILDREN FROM TRACK AREAS)
ORDER 2007**

2007 No.

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 This memorandum covers one Order which amends section 182(2) of the Gambling Act 2005 (the Act).

2.2 The effect of the Order is to extend the exemption in section 182(2) to any other track on a day on which a race or other sporting event takes place, or is expected to take place. This will allow children and young persons to enter any area of the track on such race or event days where facilities for betting are provided.

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

3.1 None.

4. Legislative Background.

4.1 This draft Order is being proposed to amend section 182 of the Act. It is the first use of this power.

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 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. This Order is concerned with conditions which are imposed under section 182 of the Act to all track premises licences.

4.5 The Act defines “track” as a horse-race course, dog track or other premises on any part of which a race or other sporting event takes place or is intended to take place.

4.6 Under the Act, the track operator is required to hold a track premises licence even though the betting facilities will be provided by a betting operator, who will hold either a general betting operating licence, a pool betting operating licence or a horse-race betting operating licence, depending on the type of betting facilities that are being provided.

4.7 Section 182 of the Act imposes a condition on the track premises licence which requires the holder of the licence to ensure that children and young people are excluded from:

- (i) any area where facilities for betting are provided; and
- (ii) any area where a gaming machine, other than a Category D machine, is situated.

4.8 Section 182 (2) of the Act exempts dog tracks and horse race courses from the first of these requirements on race days.

4.9 Section 182(4) of the Act enables the Secretary of State to provide an additional exception to the restriction on children and young persons entering areas where facilities for betting are being provided on race days.

4.10 This Order proposes to provide an additional exception to section 182(1) (a) which will have the effect of allowing children and young persons to enter any area of a track where facilities for betting are provided, on a day when a race or other sporting event is taking place.

5. Territorial Extent and Application

5.1 This instrument applies to Great Britain.

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 (Exclusion of Children from Track Areas) Order 2007 is 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 or disorder, being associated with crime or disorder or 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 When considering the mandatory and default conditions which will attach to track betting premises licences, the Department came to the view that it might be appropriate for all tracks to be able to allow children and young people into the area where betting facilities are provided on days when a race or sporting event is taking place. The Department recognised that gambling facilities are increasing available during sporting events. Generally, these are provided under contract by one of the large off course bookmakers. These venues attract children and young people, but gambling is not the primary reason why anyone goes to a track on days when a race or sporting event is taking place. The Department also noted that the requirement to exclude children and young people from the betting areas on a track was potentially difficult to implement. Also, that betting generally had a much lower profile on the tracks currently bound by this duty than those which had been granted an exemption.

7.3 The Government considered that it would be safe to extend the exemption to all tracks because:

- There is no evidence that the current arrangements for betting on these grounds are encouraging children and young people to gamble;
- It is an offence under the Act to invite, cause or permit a child or young person to gamble;
- Betting operators are subject to additional conditions preventing them from accepting bets from children and young people;
- The exemption will not extend to areas where gaming machines, other than category D machines, are provided;
- There will be a requirement on betting operators to supervise betting machines to prevent access by children and young persons.

Consultation

7.4 The Department consulted on whether to extend the exemption under section 182 to all tracks as part of its consultation on the proposed mandatory and default conditions which attach to premise licences. The consultation ran from 16 August 2006 to November 2006. The Department received 43 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.

7.5 The Department's proposal was welcomed and widely supported by the operators of all types of sporting venues. Some of the community groups argued that relaxing this requirement risked further exposing children and young people to gambling

opportunities. There were however a number of other considerations put forward. Betting is a secondary activity at sporting tracks. Betting facilities are generally provided at tracks (other than race horse courses and dog tracks) by the large operators who are under a duty (by virtue of their operating licence and the offence under section 46 of the Act) to ensure that no-one under 18 places a bet. Failure to comply with this condition would result in loss of their operating licence and prosecution under the Act. The responsibility to protect children and young people from gambling on tracks will be further underlined in Gambling Commission guidance to track operators. There are therefore safeguards in place to ensure that even if children are allowed to enter areas where betting facilities are provided on tracks they will not be able to place bets.

8. Impact

This Order has no regulatory impact.

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

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