

**EXPLANATORY MEMORANDUM TO
THE GAMBLING (OPERATING LICENCE AND SINGLE-MACHINE
PERMIT FEES) REGULATIONS 2006**

2006 No. 3284

AND

THE GAMBLING (PERSONAL LICENCE FEES) REGULATIONS 2006

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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.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Description**

- 2.1 These Regulations prescribe the fees payable to the Gambling Commission (“the Commission”) under the Gambling Act 2006 (“Act”) in relation to operating and personal licences and single-machine supply and maintenance permits. The Regulations prescribe separate fees for the different types of activities associated with licences and permits (e.g. application for a licence or permit; application to vary a licence; etc.) and the annual or maintenance fees payable in respect of a licence. The Regulations set separate fees for different types of licence (e.g. bingo, pool betting, gambling software, etc.) and, in the case of operating licences, prescribe different fees for different categories within each type of licence.

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

- 3.1 These Regulations are the first under the Act prescribing fees relating to operating and personal licences and single-machine supply and maintenance permits.

4. **Legislative Background**

- 4.1. These Regulations have been 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 introduces a unified regulator for gambling – the Commission – and a new licensing regime for commercial gambling. The Commission will license and regulate virtually all commercial gambling in Great Britain, including casinos, bingo, betting, amusement arcades, larger lotteries and the manufacture, supply and use of gaming machines and gambling software. The Commission will license operators in both the non-remote and remote gambling sectors (i.e. operations based in premises and operations solely using communication systems such as the internet).
- 4.3. The Act sets out the following three licensing objectives, which the Commission is 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.
- 4.4. As part of the new licensing regime it introduces, the Act provides for the following three main types of licence:
- 4.4.1. 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.
- 4.4.2. Personal licences. It will be a condition of each operating licence (save for those held by small-scale operators, as defined in regulations SI 2006/3266 The Gambling Act 2005 (Definition of Small-scale Operator) Regulations 2006) 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 has discretion to require more than one such licence to be held within an operation, if it considers it warranted.
- 4.4.3. The Gambling Commission may also attach a further condition to an operating licence requiring that a person who

performs specified “operational functions” 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. Such functions would include, for example, croupiers and cashiers.

- 4.4.4. Personal licences will be also be issued and overseen by the Gambling Commission.
 - 4.4.5. Premises licences. These will be held by people who wish to use premises to provide facilities for commercial gaming or betting and, in general, it will be an offence to use premises for such a purpose without a premises licence (which can only be issued to a person who holds a valid operating licence). Premises licences will be issued by licensing authorities. In England and Wales these are local authorities; in Scotland they are licensing boards established under Scottish legislation. Fees relating to premises licences are not dealt with in these Regulations – see paragraph 4.8 below.
- 4.5. In addition to licences, the Act also provides for the issue of a number of types of permit authorising certain limited forms of gambling provision, i.e. where commercial gambling is not a primary business purpose. One such permit is the single-machine supply and maintenance permit, which allows the holder to supply, repair, install or maintain a gaming machine, without holding an operating licence. For example, collectors of antique gaming machines could acquire such a permit to authorise repair of a particular machine. Single-machine permits will be issued by the Gambling Commission.
- 4.6. The Act provides for a number of different activities relating to licences and permits, and for the payment of fees to the Commission in relation to each of those activities. In summary, those activities are as follows:
- 4.6.1. Application for a licence or permit.
 - 4.6.2. Application to the Gambling Commission for a determination that an operating licence held by a company will continue to have effect following a change in control of the company.
 - 4.6.3. Application to vary an activity authorised by a licence, a condition attached to a licence or another detail of a licence.
 - 4.6.4. Application for a copy of a licence.
- 4.7. The Act also provides for the payment to the Commission of prescribed annual fees in respect of operating licences, and periodic

maintenance fees (which need not be annual) in respect of personal licences.

- 4.8. These Regulations prescribe the fees payable for each of the activities summarised in paragraph 4.6 above and annual and maintenance fees. The fees associated with premises licences (which will be paid to licensing authorities rather than the Gambling Commission) are not dealt with in these Regulations, but will be the subject of future Regulations.

5. Territorial Extent and Application

- 5.1 These instruments apply to Great Britain.

6. European Convention on Human Rights

- 6.1 As the instruments are subject to negative resolution procedure and do not amend primary legislation, no statement is required.

7. Policy background

- 7.1. The Act gave effect to the Government's proposals for reform of the law of gambling. As noted above, the Act contains a new regulatory system to govern the provision of all gambling in Great Britain, other than the National Lottery and spread betting.
- 7.2. Within the new regulatory system, the Gambling Commission will issue operating and personal licences and single-machine supply and maintenance permits (see paragraphs 4.4 and 4.5 above). The Regulations prescribe the fees payable to the Commission in relation to those licences and permits.
- 7.3. The Secretary of State's objective in making the Regulations has been, in line with HM Treasury's Fees and Charges 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. The recoverable costs (which include the full direct and allocated costs, including depreciation, of the regulatory and licensing regime) have been allocated between different types of operating and personal licence to avoid any cross-subsidisation between categories of licence and types of fees.
- 7.4. In summary, the Commission's licensing and regulatory activities that will be funded from fee income, are as follows:
- In order to authorise commercial operators to provide facilities for gambling, considering the integrity, competence and financial and

other circumstances of applicants for operating licences and, where appropriate, issuing such licences;

- In order to authorise personnel working in the gambling industry to perform the functions of a specified management office or a specified operational function (see paragraph 4.4.2-3 above), considering the integrity, competence and financial and other circumstances of applicants for personal licences and, where appropriate, issuing such licences;
- As deemed necessary, setting general conditions attaching to operating and personal licences (or classes thereof) and any individual licence conditions considered appropriate (under sections 75 or 77 of the Act);
- Enabling licence holders to vary the activities authorised by a licence, and the conditions regulating those activities, by considering applications to vary, and issuing revised licences.
- Issuing single-machine supply and maintenance permits;
- Issuing codes of practice about how facilities for gambling are to be provided;
- Monitoring licensees' compliance with licence conditions and the law, and taking appropriate licence review and regulatory action; and
- Investigating and prosecuting illegal gambling and other offences under the Act.

7.5. The fees do not provide for recovery of costs associated with the Commission's other responsibilities (for example, prevalence research studies on gambling and the collection and monitoring of information). Grant-in-aid will be used to fund these activities.

7.6. The fee levels in the Regulations are based on the Commission's model for calculating the necessary costs of delivering the services described above. This model was independently developed and audited for the Commission.

7.7. The Act sets out the kinds of operating and personal licence that the Commission will issue (Part 5 of the Act). The Commission can impose licence conditions controlling the nature and scale of the gambling facilities which a licensee can provide, for each kind of licence. In setting fee regulations the Secretary of State has taken account of these condition-setting powers. The regulations therefore create categories of licence fee, relating to the particular scale and nature of activities that an applicant wishes to undertake, or which the

granted licence authorises. An applicant for a licence is free to decide what scale and nature of activities, within a particular category, he wishes to provide, and the application fee he pays will be based on this assessment. He can subsequently apply to vary the resulting licence conditions in the future if he wishes to transact a different scale of business. In such a case his annual fee will take account of any change.

- 7.8. Examples of the factors taken into account by the fee regulations are:
- Number of licensed premises to be operated;
 - Gross annual yield to be generated from provision of gambling facilities;
 - Number of working days; and
 - Value of annual gross sales.
- 7.9. The fee levels and structure were the subject of a public consultation document published on 20 July 2006. The consultation period ended on 13 October 2006, although a number of responses were received (and considered) up to the end of October 2006. In total, 233 responses were received from a wide range of stakeholders. Over half (134) came from small bookmakers and customers of one remote gambling operator (28) , whose submissions were based on a standard text.
- 7.10. In addition, during September and October 2006 the Gambling Commission met with all of the main gambling industry associations and employee / consumer representative groups, including:
- Remote Gambling Association;
 - British Casino Association;
 - Lotteries Council and Hospice Lotteries Association;
 - British Holiday and Home Parks Association;
 - British Amusement and Catering Trades Association;
 - Federation of Racecourse Bookmakers;
 - Bingo Association;
 - Gamcare and Responsible Gambling Solutions;
 - Trade Unions (GMB, Community and Transport and General Workers Union)

- 7.11. In general, there was broad agreement with the fee proposals. While some consultees stressed that the move into the 2005 Act regime would be financially challenging, it was acknowledged that it would be impossible to avoid a significant increase to current fee levels, which are low, relate to a significantly different regulatory regime, and are not directly based on the cost of the activities to which they relate.
- 7.12. A number of specific points were made by people who responded to the consultation (for details of these points, see the Regulatory Impact Assessment attached to this memorandum). In response to those points, the Commission reviewed its risk assessment and required levels of regulatory activity. As a result, the following main changes to the initial proposals were made:
- An additional fee band was introduced for smaller operators in the bingo, general betting and family entertainment and adult gaming machine (arcade) sectors. This, and related changes, allow for a more phased approach to marginal fee levels and for smoother transition between different fee bands.
 - A new kind of licence fee was introduced for on-course betting operators, to avoid these small operators having to pay the same fees as large providers of betting facilities.
 - Licence fees for small bingo operators were brought into line with those for small betting operators.
 - Fee bands for External Lottery Managers (people who manage lotteries on behalf of societies) were brought into line with those for other commercial operators (such as gaming machine manufacturers).

8. Impact

- 8.1 A Regulatory Impact Assessment is attached to this memorandum.
- 8.2 The impact of the instruments on the public sector is limited. The Gambling Commission (a Non-Departmental Public Body established under the Act) to whom the fees charged under the instruments are paid, will be required to collect the fees. The Gambling Commission will also be required to review the level of fees annually to ensure that they continue to fully meet, but not exceed, the Commission's costs in providing the services to which the fees relate. Because the fees are set at a level intended to meet the Gambling Commission's costs, the instruments insulate the public purse against most of the costs of regulating the gambling industry.

9. Contact

Donald Sproson at the Department for Culture, Media and Sport, Tel: 020 7211 6535; or e-mail: Donald.Sproson@culture.gsi.gov.uk can answer any queries regarding the instrument.

Final Regulatory Impact Assessment: Gambling Commission Fees

1. Title of proposal

(a) The Gambling Act 2005 (Operating Licence and Single-Machine Permit Fees) Regulations 2006.

(b) The Gambling (Personal Licence Fees) Regulations 2006.

2. Purpose and intended effect

The Objective

- 2.1 The Gambling Act 2005 ("the Act") gives the Secretary of State the power to make Regulations setting fees to be paid to the Gambling Commission ('the Commission') in respect of the exercise of certain of its functions under the Act¹. **The objective of the regulations is to set fees for operating and personal licences at a level which enables cost recovery of the Commission's licensing and regulatory activities whilst ensuring fairness and value for money for the gambling industry.** This will replace the structure of fees which is currently payable to various regulatory authorities for the issue and renewal of gambling permissions under existing legislation.
- 2.2 The Secretary of State is empowered through further secondary legislation to revise the regulations setting the fees at any time.
- 2.3 This RIA includes consideration of fees to be paid to the Commission for its licensing and regulatory activities from 1st January 2007 so as to balance its income and expenditure with the full cost being recovered each year. A review of fees levels will take place after one year.
- 2.4 This RIA does **not** include consideration of fees to be paid to licensing authorities (in England and Wales, local authorities, and in Scotland, licensing boards) to license gambling premises and issue a range of permits to authorise gambling in their localities. These fees will be set by the Secretary of State and by Scottish Ministers respectively.

¹ Operating licences - application fees (section 69(5)), annual fees (section 100), change or variation of licence fees (sections 101 and 104 respectively), change of control fees (section 102) and copy of licence fees (section 107(2)(a)). Personal licences - application fees, change or variation of licence fees and copy of licence fees (section 128) and periodic maintenance fees (section 132).

The Background

- 2.5 The Government published in 2002 its plans for modernising the laws governing gambling in Great Britain in the document "A safe bet for success - modernising Britain's gambling laws". This included the creation of a new, independent and powerful regulator to undertake the full range of responsibilities allocated to it, and for it to operate on a cost recovery basis under its licensing and regulatory activities, funded by licence fee income. The Commission was established on 1st October 2005 and has taken over all the functions of the Gaming Board for Great Britain in regulating gaming and certain lotteries and will take on additional responsibilities for regulating betting and remote gambling and for investigating and prosecuting illegal gambling and other offences under the Act. Fees charged will not be set at a level to finance the Commission's other responsibilities (i.e. prevalence research studies on gambling and the collection and monitoring of information). Grant-in-Aid will be used to fund these activities.
- 2.6 Section 1 of the Act contains statutory licensing objectives which underpin the Commission's functions, duties and powers:-
- To prevent gambling being a source of crime and disorder, being associated with crime or disorder or being used to support crime;
 - 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.

The regulatory framework

- 2.7 The consultation document published on 20th July 2006 explained the rationale for implementing the new framework for the delivery of the licensing and regulatory regime, and the duties to be undertaken by the Commission for which fees will be charged. The proposed framework and policy approach for the Commission to base its charges on a full cost recovery of its licensing and regulatory activities will be adopted as set out in the consultation document, although certain points of detail (as explained below) have changed in light of responses received. The regulatory activities are:-
- Issuing operating licences to authorise commercial gambling operators to provide facilities for gambling;

- Issuing personal licences to certain authorise personnel working in the gambling industry to perform the functions of a specified management office or a specified operational function;
- Setting general conditions for operating licences and personal licences and any individual licence conditions considered appropriate;
- Issuing codes of practice about how facilities for gambling are provided;
- Monitoring licence holders to ensure compliance with licence conditions and the law; and
- Investigating and prosecuting illegal gambling and other offences under the Act.

2.8 The costs of these activities will be met through non-refundable application licence fees for operating and personal licences, annual fees for operating licences, five-yearly maintenance fees for personal licences and other regulatory fees. The fees for each sector of the gambling industry will be self-funding and be set at a level that enables cost recovery of the licensing activity provided by the Commission to ensure fairness and value for money for the gambling industry. The principles applied in setting the fees and the key variables/categories used to determine the appropriate fees to be charged were explained in the published consultation document.

2.9 The estimated annual cost for the Commission in taking on the full range of responsibilities was put in the range of £10-£14 million (2003 prices, including compliance, enforcement and tackling illegal gambling) and was published in the Regulatory Impact Assessment (RIA) which accompanied the Gambling Act in 2005. The Commission currently estimates that annual costs will be £11.8m in 2006/07 and £13.6m in 2007/08 and this range and supporting assumptions have been used as the basis for setting the fee levels. At current prices and taking account of anticipated cost increases to the end of 2007/08, the estimated costs of £11.8m and £13.6m equate in 2003 prices to £11m and £12.4m respectively and so fall comfortably within the range anticipated in the Gambling Act RIA.

2.10 Those expected to be affected by the payment of licence fees for operating and personal licences (for "remote provision" and "non-remote provision") are as follows:

Operating licences

- 2,000 gaming machine arcades (this is approximately equivalent to 1,000 licensed and

unlicensed Family Entertainment Centres and 1,000 Adult Gaming Centres);

- 146 commercial bingo operators;
- 19 casino operators;
- 3,600 bookmakers (including betting intermediaries);
- 661 society lotteries;
- 3 registered football pools promoters;
- 20 pool betting competitions
- 680 machine suppliers and repairers
- 15 external lottery managers; and
- 31 dog track pool betting operators.

Personal licences

2.11 There are approximately 10,000 people who are currently employed in the casino and bingo sectors with section 19 certificates of approval under the existing legislation.

3. Risk Assessment

3.1 There are essentially three major risks associated with the regulations. These are that the fees will be set too high, or too low, or that the fees affecting particular sectors of the gambling industry may attract a disproportionate level of costs.

Too high: This would create an unfair financial burden on industry, voluntary groups, clubs² and charities³ and others who pay fees, including individuals; it would also be likely to reduce new entry into the industry and so tend to restrict competition. Finally, fee-setting guidance means that the excess Commission revenue over expenditure could not be retrospectively recovered.

Too low: This would mean that the Commission would be under-funded and any deficit would have to be recovered through general taxation. This would amount to a taxpayer subsidy of the profitable gambling industry, which would not be acceptable to the general public. Moreover, delivery of the licensing objectives would suffer if there was inadequate funding for implementing or enforcing the new licensing regime, including the associated offences.

² Members' and Commercial Clubs and miners' welfare institutes require bingo operating licences from the Commission in certain circumstances (see section 275 of the Act).

³ These groups are interested in the lottery sector.

Disproportionate: This would apply if fees were set which involved a rise in business costs for a particular sector of the industry that was disproportionate to the costs the Commission would incur in regulating that sector or if fees did not reflect the relative regulatory risk of different businesses in the same sector. It would mean that the competitiveness of that 'sector' would suffer unfairly compared with other sectors of the gambling industry that businesses of a particular type are favoured over other businesses operating in the same sector.

4. Consultation

4.1 The Government and the Commission published a consultation document on the proposals for Gambling Commission fees on 20th July 2006. The consultation period ended on 13th October 2006, although a number of responses were received (and considered) up to the end of October 2006. A total of 233 responses were received from a range of interested stakeholders (individuals, professional and trade associations, representative groups, employers and business organisations). Of these, 134 were from small bookmakers and 28 from customers of a remote gambling operator who in both cases sent comments using a standard text. In addition, bilateral meetings were held with the following groups:-

Remote Gambling Association 2006	22 nd	September
British Casino Association 2006	25 th	September
Lotteries Council and Hospice Lotteries Association 2006	28 th	September
British Holiday and Home Parks Association October 2006	2 nd	
British Amusement and Catering Trades Association October 2006	2 nd	
Small Bookmakers Association 2006	4 th	October
Federation of Racecourse Bookmakers 2006	6 th	October
Gamcare and Responsible Gambling Solutions October 2006	6 th	
Bingo Association	9 th	October 2006
Trade Unions: GMB, Community and T&GWU 2006	13 th	October

4.2 Each of the issues considered in the consultation document was addressed by specific questions. Overall, the responses indicated that there was broad agreement with the proposed framework and policy approach for setting the level of Commission fees. It was also acknowledged that the move into the new regulatory under the 2005 Act meant that the change from the existing regime was financially challenging. Current fee levels are set at such a low rate that it was understood that it would be impossible to avoid a significant increase to accommodate the regulatory requirements now imposed by the 2005 Act. However, a number of common and main concerns did emerge:-

- Fee levels and category bands, as proposed, were seen as 'anti-competitive' because they present barriers to growth in scale at the margins of the fee bands and as large-scale operator unit costs would be much lower than those of smaller operators;
- Smaller operators (i.e. small on and off course bookmakers and bingo operators) and the 'independent sector' (i.e. adult and family gaming centres) considered that the proposed fee levels and workload assumptions were too high, especially when compared to current fee levels;
- Category bands to define the types of gambling were unfair and unreasonable and it would be better if categories came from a formula-based fee structure, linked to the number of premises or turnover of the licensed operator; and
- External Lottery Managers should not be treated in the same way as other licensed operators in remote fee calculations.

4.3 In response, a further review of the Commission's planned activity levels and workload assumptions was undertaken. Following that review, the Government and the Commission remain satisfied that the workload estimates and assumptions underpinning its planned regulatory activity levels are generally robust and should be adopted to enable the Commission to undertake its regulatory activities. However, a number of changes have been made to address the concerns raised. The main ones are:-

- For smaller operators in the bingo, general betting, and family and adult gaming machines sectors, the workload assumptions have been revised in the light of a revised lower risk assessment, under which the Commission now anticipates undertaking visits to these sectors over a two-year cycle instead of annually;
- A new category has been introduced for on-course bookmakers within the "General Betting" category

type, with three bandings within this category reflecting the number of pitch days;

- The Type A category for bingo, general betting, and family and adult gaming centres to be split in the light of a revised assessment of risk and control measures to allow a more phased approach to workload and marginal fee levels; and

- Licence fees for small bingo operators are to be brought into line with small bookmakers and category bandings for External Lottery Managers are to be brought into line with other commercial operators (i.e. gaming machines), again following refined risk and regulatory controls assessments.

4.4 These changes (together with other adjustments) take on board all the principal points in response to the consultation without compromising the overall framework and policy approach, with which respondents by and large agreed. The impact the changes have on licence fee levels are reflected in the revised tables at Appendix 1.

5. Options

5.1 The principles referred to in paragraph 2.8 have been considered against each option below in deciding the Government's preferred option.

Option 1 - Do nothing. Do not make the fee regulations for operating and personal licences

5.2 **The Government rejects this option.** The Government does not consider that an option involving not making any fee regulations is feasible. The consequence would be that these aspects of the regulatory system would be entirely funded by the central taxpayer and unfunded by the industry. That was neither Parliament's nor the Government's intention.

Option 2 - Set fee levels at an agreed lower level and subsidise the fees through central taxation

5.3 **The Government rejects this option.** It does not consider that it would be reasonable or fair to expect the taxpayer to subsidise the activities of companies and persons engaging in licensable activities. Many of the activities are conducted commercially (and profitably) for the benefit of individuals and shareholders. In the case of members' clubs, they are conducted for the benefit of the members only and not the wider community. In the case of voluntary groups and charities, the Government recognises the altruistic nature and

community benefit of many activities undertaken, but they are conducted voluntarily and it would be unreasonable to expect taxpayers who do not support the aims of the bodies concerned to support them indirectly through additional taxation. Furthermore, as fees under this option would not be recovered for each sector of the industry, they would have to be set at an arbitrary level, with subjective judgements made as to what percentage would not be recovered for each sector of the industry.

Option 3 - Set fee levels to recover the full costs of the Commission's licensing activities, but at a level that every operator pays the same fee

- 5.4 **The Government rejects this option.** Whilst this option would ensure that the full recovery of the Commission's licensing activity costs (including set-up), it would fail to meet the important principle of setting fees that avoid cross-subsidisation between sectors. It would not take account of the breath of work necessary for the Commission to carry out in pursuit of its licensing objectives, specifically how that workload would need to vary across sectors and by scale of operator in response to the assessment of regulatory risk.

Option 4 -Set fee levels to recover the full costs of the Commission's licensing activities in line with the framework and principles set out in the consultation document, and review the fee levels after one year

- 5.5 **This is the Government's preferred option.** This option will meet the Government's principal objective of setting a fees model which recovers from licence holders the full costs of the Commission's statutory licensing and regulatory activities, (as set out in earlier consultation on the Gambling Bill). This option will reflect the relative risks to the licensing objectives posed by the various forms of gambling and the types of organisation within each sector. Finally, this option will ensure that no costs would fall on the central taxpayer and it will comply with all principles and deliver all the objectives of the fees structure as set out in the accompanying consultation document.

- 5.6 It is recognised that under the Government's preferred option, the total cost of regulatory work undertaken by the Commission will be greater than that of the Gaming Board for Great Britain. A significant proportion of this additional expenditure relates to the extended remit of the Commission in the light of the Government and

Parliament's desire to improve betting regulation and introduce a system for regulating remote gambling and have a consistent approach to all gambling regulation. It also reflects the fact that operators can take advantage of new business opportunities, such as those in the casino and on-line gambling sectors, and others (including bingo clubs, betting shops and adult gaming centres) will have access to higher value, and potentially more profitable, gaming machines. There will also be new licensing requirements for arcades and a tighter regulatory regime for other venues providing gaming machines in the interests of protecting children and other vulnerable people. The Commission will also need to be resourced to tackle illegal gambling in its various forms. The level of fees will be reviewed annually by the Department, in cooperation with the Commission, with a view to absorbing any increases in costs by efficiency savings wherever possible so that any future fee increases are kept to a minimum.

5.7 That said, it is the Government's view that the potential financial benefits for the industry as a whole substantially outweigh necessary additional regulatory costs. A conservative estimate based on projections from a range of consultancy studies suggested that the new regulatory regime could lead to an increase in net consumer expenditure on commercial gambling of £1,000 million a year over a five-year period beginning in 2004/05.⁴ Licensing on-line gambling will also enable British-based operators to compete for the first time for a share of a global market that has been estimated could double to around £10 billion per year by 2010. But for this potential to be fully realised it is the Government's view that it is absolutely essential that the gambling industry retains its reputation for both quality and integrity. This in turn is dependent on the maintenance and development of an effective regulatory regime in which operators and customers, both domestically and overseas, and the public at large can have the fullest confidence. To achieve this, it is the Government's view that fee levels should be set to recover the full costs of the service provided by the Commission in delivering its licensing activities.

5.8 The proposed fees will finance a comprehensive system of regulation for the industry. This has advantages to providers of gambling facilities. First, the Commission will be able to ensure that no part of the industry is unfairly treated. Second, a

⁴ Assuming increased competition encouraged by the regulatory regime reduces costs of gambling by 10% and the elasticity of demand for gambling is approximately -1.2.

comprehensive system of compliance and enforcement will mean that licensed operators and individuals can be assured that the risk of competition from non-compliant or unlicensed operators will be minimised.

5.9 Table 2⁵ below also demonstrates that under the present licensing regime, there is an annual subsidy to the industry of almost £6.2 million annually. This subsidy (i.e. from the central taxpayer) has benefited the industry for a considerable period and it is the Government's view that this approach is no longer justified and the Commission should operate on a full cost recovery basis in undertaking its full range of responsibilities allocated under the Act.

5.10 Under option 4, the proposed fees payable in respect of licence applications made from 1st January 2007 and annual fees that apply from 1st September 2007 are set out below in the tables at Appendix 1.

6. **Benefits**

6.1 The benefits of the regulations lie in the ability to set fees which allow the recovery of the legitimate and efficient costs of the Commission in regulating the new licensing regime, and the ability to review the fee levels on a continuing basis.

(i) Economic

6.2 The level of fees should not place an unreasonable burden on industry or damage current business activity, especially in the light of changes made in response to the consultation. If the fees were not paid, the new regime would have to be financed almost entirely through central taxation. The fees should produce a properly resourced licensing regime (with a new powerful independent regulator, the Commission), allowing the Act to be implemented efficiently and therefore produce the benefits of improved customer protection envisaged by Parliament when it scrutinised the primary legislation. The fees will permit the development of a comprehensive risk-based regulatory regime for gambling for the first time. As a result, many of the inefficiencies and inequalities inherent in the present regime will be removed. This should help increase competition and the gambling industry is likely to become more cost-effective. These benefits were detailed in the Regulatory Impact Assessment produced for the 2005 Act.

⁵ The total costs in Table 2 include **ALL** regulatory costs not just operator and personal licence costs.

(ii) Environmental

- 6.3 The fee regulations do not directly impact on the environment, but the Department considers that an efficient and properly resourced licensing regime will assist in reducing crime and thereby produce safer town and city centres.

(iii) Social

- 6.4 Gambling brings with it risks of personal and social harm through regular or excessive play. Although research has revealed that only a small proportion of adults suffer significant levels of harm, it is the Department's view that the reduction of harm should take precedence over the maximisation of innovation, consumer choice and economic gains, which motivates its strategy for those leisure activities that involve no such risks. The Act does provide for new, robust, regulatory control over all stakeholders and opportunities for consumers to gamble, as well as the lifting of some existing controls where the risk of harm is low. The fee regulations should ensure that the Commission is enabled to pursue its licensing objectives and to permit gambling in so far as it is reasonably consistent in pursuit of these licensing objectives. They will also provide reassurance that enforcement action will be taken against licensees who do not adhere to licence conditions and those who seek to escape the system altogether. It is not considered that any of the options outlined above will have any race equality impacts.

7. Equity and Fairness

- 7.1 The method that the Department has adopted to ensure that fee levels set are fair and equitable is to ensure, so far as possible, that fees cover the costs of the administration, inspection and enforcement functions to be carried out by the Commission, and no more. The Department recognises that any arrangements of this kind are based on projections and assumptions. Until the transitional period begins - in respect of some costs - until the regime is fully implemented, the actual costs which need to be recovered will not be accurately known. The Government will therefore take two steps to ensure equity and fairness in future:-

- The actual costs of the regulatory regime will be closely monitored in partnership with the Commission and in consultation with the industry; and

- If there are early indications that the costs are not as predicted, the Department will amend the fee regulations;

8. Costs

Business compliance costs

8.1 The cost to the gambling industry arising from the fee regulations is the difference between the fees charged for the existing licensing regimes and the fees that will be charged under the new regulations. Estimated compliance costs between the existing fees structure and that proposed under the 2005 Act were published in the Regulatory Impact Assessment which accompanied the Gambling Bill in 2004. These costs are set out in the Tables 2 and 3 below:

Table 2

<u>Approximate current regulatory costs</u> ⁶	<u>Number</u>	<u>Estimated Annual Cost (£m)</u>
<u>Gambling Commission, (and related magistrates and police costs)</u> ⁷	11,000 applications	8.764 ¹²
<u>Local authority costs</u>	2000	0.17
Gaming machine arcades	60,000 pubs	0.64
Gaming machines in pubs	2,000	0.02
Gaming machines in other locations with an on-licence	premises	1.1
Lotteries (registration fees)	60,000 ¹¹	0.007
Pools promoters ⁸	3	0.44
Tracks (greyhound and others)	180	0.06

⁶ Currently, the fee structure for licences, certificates, permits and registration is set centrally by the Secretary of State under the Gambling Act 1968, the Betting, Gaming and Lotteries Act 1963 and the Lotteries and Amusement Act 1976.

⁷ Annual figures based on estimate of the number of licences for 2004/05. Gambling Commission costs include certificates of consent issued by the Commission to bingo clubs and National Game, casinos, certificates to specified staff employed in casinos and bingo halls, to those who sell, supply or maintain gaming machines, and to lottery managers, and registration of certain societies' lotteries. Costs include work undertaken by licensing justices in issuing licences to bingo clubs and casinos and registrations to members clubs and police costs in attending hearings, but does not include DCMS costs.

⁸ Fees set by local authorities not to exceed £464. Figures include costs of local authority accountancy services to the operator.

⁹ Includes estimated costs of Levy Board certificate of approval system.

¹⁰ Figures based on DCMS Statistical Bulletin: Betting licensing June 200-May 2003.

¹¹ Based on Gaming Board for Great Britain Annual Report 2005/06. £17.50 annual renewal fee.

¹² Gaming Board for Great Britain Annual Report 2005/06, Grant-in-Aid plus fees collected.

Tracks (horse) ⁹	60	0.25
Amusement with prize permits	5,000	
<u>Magistrates</u>		
Bookmakers permit and betting office licences ¹⁰	12,376 renewals	0.62
Total		12.071
Fee Income¹³		(£m)
Gambling Commission		2.674
Courts		3.210
Total		5.884
Net difference over current regulatory costs		6.187

Table 3

Estimated Regulatory costs under new regulatory structure¹⁴	(£m)	
Gambling Commission ¹⁵	10.53	- 13.67
Local Authorities	5.8	-
Employer/employees costs for CRB checks	6.9	
Appeals (Gambling Tribunal)	1.36	-
	1.626	
	0.405	-
	0.550	
Total	18.095	-
	22.746	
Net increase over current regulatory costs	8.095	-
	12.746	
Other costs		
<ul style="list-style-type: none"> • Voluntary contributions to the Responsibility in Gambling Trust • Potential reduction in income for good causes via the National Lottery • Government costs in developing the Gambling Bill • Possible costs for the NHS and other law enforcement agencies 		

8.2 It should be noted that the above estimates do not include the internal costs of regulation for licensed organisations. It is likely that all organisations subject to the Act will devote time and resources to ensuring that licence conditions are met. No estimate of this aspect of compliance is available for the present and, given likely changes in the structure of the

¹³ Fees collected by the Gambling Commission and Courts based on Gaming Board for Great Britain Annual Report 2005/06.

¹⁴ Based on estimates supplied by the Gambling Commission, Local Government Association and the Department for Constitutional Affairs.

¹⁵ Does not include Gambling Commission set-up costs.

industry, estimates of such costs in the future would remain conjectural.

Option 1

8.3 Under Option 1 the licensing activity costs of the new licensing regime would fall on the central taxpayer in the form of subsidy from the Exchequer to the industry. This is estimated for the next two years in table 4.

Table 4¹⁶ - Compliance Costs

	2006/07	2007/08	Total
Total costs of regulation	£11.8m	£13.6m	£25.4m
Met by Exchequer	£5.9m	£7.7m	£13.6m
Met by industry	£5.9m	£5.9m	£11.8m

8.4 Accordingly, the total costs over a period of two years would be £25.4m compared with fee expenditure by the industry of £11.8m over the same period if the existing licensing regime continued. The difference £13.6m would continue to be borne by the general taxpayer.

Option 2

8.5 This Option would involve setting fees at levels which do not meet the full cost of the Commission's licensing activities and would again impose costs on the central taxpayer. As fees would not relate to costs, they could be set at any arbitrary level. For example, if fees were set at 20% below the estimated recovery costs of licensing activities, compliance costs would be shown in table 5.

Table 5 - Compliance Costs

	2006/07	2007/08	Total
Total costs of regulation	£11.8m	£13.6m	£25.4m
Met by Exchequer	£2.4m	£2.7m	£5.1m
Met by industry	£9.4m	£10.9m	£20.3m

¹⁶ Licensing activity by the Commission will commence on 1st January 2007. These figures represent the estimated cost of running the Commission assuming a full financial year's licensing operation.

- 8.6 When compared with Option1, this represents additional expenditure for the gambling industry over the same period if the existing licensing regime continued as shown in Table 5.
- 8.7 Total fee expenditure over a period of over two years would be £20.3m by the industry compared with fee expenditure of £11.8m over the same period if the existing licensing regime had continued. This is a cost to the industry over two years of around £4.3m annually. However, this would go a long way towards eradicating the subsidies that existed under the existing licensing regime of almost £6.2 million annually.

Option 3

- 8.8 Whilst this option would ensure that the recovery of the costs of the Commission's licensing activities (including set-up) and not the central taxpayer, it fails to meet the three important principles - i.e. setting fees that seek to avoid cross-subsidisation between sectors, ensuring that larger businesses do not pay disproportionately lower fees than smaller businesses and taking account of the breath of the Commission's work necessary to meet its licensing objectives. Compliance costs are shown in table 6.

Table 6 - Compliance Costs

	2006/07	2007/08	Total
Total costs of regulation	£11.8m	£13.6m	£25.4m
Met by Exchequer	£0m	£0m	£0m
Met by industry	£11.8m	£13.6m	£25.4m

- 8.9 Total fee expenditure by the industry over a period of two years would be £25.4m compared with fee expenditure of £11.8m over the same period if the existing licensing regime had continued. This is an extra cost to the industry over two years of about £6.8m annually. However, this would totally eradicate the subsidies that existed under the old regime of £6.2 million annually.

Option 4

- 8.10 Option 4, the Department's preferred option, will involve setting fees which recover from the industry the costs (including set-up) of the Commission licensing activities, (as envisaged within earlier consultation on the Gambling Bill). This option would ensure that no costs fall on the general taxpayer. Under this option, compliance costs are set out in Table 7 below.

Table 7 - Compliance Costs

	2006/07	2007/08	Total
Total costs of regulation	£11.8m	£13.6m	£25.4m
Met by Exchequer	£0m	£0m	£0m
Met by industry	£11.8m	£13.6m	£25.4m

- 8.11 Total fee expenditure by the industry over a period of two years would be £25.4m compared with fee expenditure of £11.8m over the same period if the existing licensing regime had continued. This is a cost to the industry over two years of about £6.8m annually. This would eradicate the subsidies that existed under the old regime of almost £6.2 million annually.

Other savings

- 8.12 The implementation of the Act will produce a range of other benefits for industry that arise under this

fee structure e.g. savings against full applications for multiple licensable activities (across various sectors or remote plus non-remote), lower annual fees for the first year and the different costs likely to arise for remote and non-remote licences. Fees are tailored to reflect the anticipated levels of the related costs of regulation, which has led to reduced fees for multiple activities, as explained in the consultation paper.

9. Small Firms Impact Test

9.1 Trade organisations that have both large and small operators as members have been and will continue to be consulted on the fees policy as drafted in the Act and implemented by the fees regulations. The Small Business Service (SBS) was also consulted. The Department's objectives, within the overall framework for effective regulation, will be to minimise any disproportionate impact on small businesses. For example, a small-scale operator (as defined in separate regulations) will be relieved of the obligation for anyone in its organisation to hold a Personal Management Licence, and his/her operating licence stands in its place.

9.2 The Department is satisfied that the burden on small businesses created by the fee regulations (including the changes proposed above) are proportionate and fair, and will not place an undue burden on them. The fee banding proposed reflects the relative size and regulatory risk of organisations in each sector of the industry and are designed to ensure fairness for small businesses, within the overall risk framework. The Department therefore does not consider that the approach proposed in this RIA is contrary to this objective.

10. Competition assessment

10.1 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. Options 2 and 3 should introduce more competition into the gambling industry. Option 4, the Department's preferred option, while generally treating all sectors conducting licensable activities equally, does include differential fees. These are based on different classes of gambling activity undertaken by business operating on different scales and posing different levels of regulatory risk which factors determine the level of a particular fee for a given activity. This is to ensure that the level of fees appears fair by ensuring that large

businesses which are more complex and pose a greater regulatory risk pay more than smaller, less complex and lower risk businesses and also that fee levels do not become an unreasonable barrier to entry or growth for businesses wishing to operate in the gambling industry.

10.2 The Act will remove 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.

10.3 Some sectors of the gambling industry are highly concentrated. For example, the latest available data indicate that Hilton (i.e. Ladbrokes) generated approximately 11% of the gambling industry turnover in 2003/04. Since, than Ladbrokes has been overtaken by William Hill as the latest operator of Licensed Betting Operators in Great Britain. In the past there has been evidence of monopoly profits in the British bookmaking sector¹⁷. However, the degree of monopoly is likely to have subsequently reduced as GPT, introduced in October 2001, encouraged new competition. Moreover, despite the importance of these firms in the betting sector, the fragmentation of the gambling industry is such that they are unable to influence market outcomes in other sectors of the industry. Finally, it remains to be seen whether the Gambling Act 2005 will allow some firms to translate dominance of a particular sector into dominance of the industry.

10.4 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 operations are likely to pose relatively high risks to the licensing objectives. Such firms will be charged at a higher rate than smaller simpler and lower risk operations. This is because although the costs of Commission information and analysis will be similar no matter what the size of the gambling operation, monitoring and enforcement are both likely to increase as the size, complexity and risk of an operation increases. The proposals are designed to be fair and treat all sectors of the gambling industry with equality, whilst taking into account the size and of a business within a particular sector in determining the level of fees.

¹⁷ David Paton and Leighton Vaughan Williams (2001): "Monopoly Rents and Price Fixing in Betting Markets", Review of Industrial Organisation, Vol 19, 2001, pp265-278.

10.5 This form of differential pricing is unlikely to affect the structure of the industry or the number or size of firms in a significant way. This is because the fees 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.

10.6 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 will influence the structure of the gambling industry.

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

11. Enforcement and Sanctions

11.1 On the payment of fees, the Commission will from 1st January 2007 be able to issue operating licences to organisations and individuals who are providing facilities for gambling, and personal licences to certain individuals working in the gambling industry, all of which will take effect from 1st September 2007. The Commission will specify any conditions under which these licences are granted, and will also be issuing codes of practice for the provision and management of gambling facilities. The Commission has legal powers to monitor licence holders and will be able to levy fines or revoke the new licences; as well as impose new or revised licence conditions. It will also investigate and prosecute illegal gambling under the Act.

12. Monitoring and Review

12.1 The Commission and the Department will keep the operation of the fees under review and will monitor and advise the Department on the need for regulatory changes. It will liaise and consult with stakeholder interests. An annual report of its activities will be published.

13. Summary of Costs and Benefits and Recommendation

13.1 The Options are shown in the Table below:

Table 8

Option	Cost	Benefit
1. Do nothing. Do not make the fee regulations.	Costs - estimated annual costs of around 25million would be absorbed by the central taxpayer. Or around £50 million over two years to end 2007/08. Consequently the structure of charges will take no account of the changing structure of the industry. In addition, the costs of the Commission will not be covered implying a subsidy from the Exchequer to the industry.	Gambling providers would be protected from meeting the full costs of the new licensing regime.
2. Set application and annual/maintenance fee levels for operating and personal licences at an agreed lower level but subsidise the fees through central taxation.	If, for example, fees were set at 20% below the estimated recovery costs in option 1, compliance costs for the gambling industry would be £20.3 over two years.	Gambling providers would be protected from meeting the full costs of the new licensing regime.
3. Set application and annual maintenance fee levels for operating and personal licences to recover the full costs of the Gambling Commission, but at a level that every operator pays the same fee.	Estimated annual costs of around would be absorbed by the gambling industry. Or around £25.4m over two years. This option fails to avoid cross-subsidisation between sectors and to ensure that larger businesses pay higher fees than smaller businesses.	Recovery of the Commission's licensing activity costs meet by the gambling industry and not the central taxpayer.
4. Set fee levels to recover the licensing	Estimated annual costs of around would be absorbed	Full recovery of the Commission's licensing activity

Option	Cost	Benefit
activity costs of the Gambling Commission in line with principles set out in this RIA.	by the gambling industry. Or around £25.4m over two years.	costs by the gambling industry and not the central taxpayer, with costs spread fairly across sectors avoiding cross-subsidisation.

The Department has decided that Option 4 represents the best option and will continue to monitor and review the impact of the regulations and if necessary, will amend them in the light of actual experience.

14. Declaration

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

Signed.....

Date.....

Contact point:

Donald Sproson
 Gambling and National Lottery and Licensing Branch
 Gambling Division

0207 211 6535

donald.sproson@culture.gsi.gov.uk

APPENDIX 1

Table 1
Operating Licence - application fees

Revised Proposal

Operating licence type	Proposed Licence Application Fees							
	Non-Remote					Remote		
	A	B	C	D	E	F	G	H
Casino: 2005 Act	28988	38047	43482			28988	34423	38047
Casino: 1968 Act	6588	9882	19765			28988	34423	38047
Bingo	988	1647	3294	17295	20753	1647	3294	16471
General betting - limited	180	360	990					
General betting - standard	988	988	3459	17295	40518	988	3294	16471
Pool betting	659	1647	4941			659	1647	4941
Betting intermediary	200	200	200			9882	13176	16471
Gaming machine general: AGC	988	988	1647	4941	16471			
Gaming machine general: FEC	988	988	1647	4941	16471			
Gaming machine technical: manufacturer	988	1647	16471			988	1647	16471
Gaming machine technical: supplier	988	1647	4941			988	1647	4941
Gaming machine technical: software	988	4941	16471			988	4941	16471
Gambling software	988	4941	16471			9882	13176	16471
Lottery managers	988	1647	2306			988	1647	2306
Society lotteries	165	247	329			165	247	329

Table 2
Operating Licence - annual fees

Revised proposal – Annual Fees

Operating licence type	Proposed Annual Licence Fees							
	Non-Remote					Remote		
	A	B	C	D	E	F	G	H
Casino: 2005 Act	36619	72694	145388			12733	34176	66341
Casino: 1968 Act	12267	15537	221654			12733	34176	66341
Bingo	1327	5308	12645	26842	58573	12733	34176	66341
General betting - limited	150	350	950					
General betting - standard	1327	5308	12645	27647	159279	12733	34176	66341
Pool betting	1591	3062	3062			12733	34176	66341
Betting intermediary	200	3062	3062			12733	34176	66341
Gaming machine general: AGC	1212	4848	9696	19866	27647			
Gaming machine general: FEC	878	3512	7024	15966	26842			
Gaming machine technical: manufacturer	2221	4744	10631			12733	34176	66341
Gaming machine technical: supplier	1801	2432	3062			12733	34176	66341
Gaming machine technical: software	1151	2896	4641			12733	34176	66341
Gambling software	1151	2896	4641			12733	34176	66341
Lottery managers	1486	1696	1906			12733	34176	66341
Society lotteries	261	519	1044			2372	4370	6361

Tables 3 and 4
Operating Licence - miscellaneous fees

Licence Type	Application fee	Annual fee
General Betting restricted remote - phone betting only and GGY up to £0.25m	660	1500
Ancillary remote fee (per Regs)	100	25

Changes in control	Charge
Change in control	75% of standard licence fee
Change resulting from mergers/divisions	75% of standard licence fee
Variations	
Add licensed activity	25% of standard licence fee
Amend licensed activity	25% of standard licence fee
Remove licensed activity	£25 admin fee
Change details	£25 admin fee
Add a condition to the licence	25% of standard licence fee
Amend a condition to the licence	25% of standard licence fee
Remove a condition to the licence	25% of standard licence fee
Copy of licence	
	£25 admin fee
Copies of the register of operating licences	
(This is a charge set by the Commission under s.106(2) of the Act and need not appear in the Regulations. Access to this information will also be available on the internet for free)	£25 admin fee

Table 5

Personal Licence fees

Personal Licences	Fees	
	Application	Maintenance
Management Licence	330	330
Functional Licence	165	165

Variations	Charge
Add licensed activity	25% of standard licence fee
Amend licensed activity	25% of standard licence fee
Remove licensed activity	£25 admin fee
Change details	£25 admin fee
Add a condition to the licence	25% of standard licence fee
Amend a condition to the licence	25% of standard licence fee
Remove a condition to the licence	25% of standard licence fee
Copy of licence	£25 admin fee
Copies of the register of personal licences (This is a charge set by the Commission under s.106(2) of the Act and need not appear in the Regulations. Access to this information will also be available on the internet for free)	£25 admin fee