

**EXPLANATORY MEMORANDUM TO
THE GAMBLING (PREMISES LICENCE FEES) (ENGLAND AND WALES)
REGULATIONS 2007**

2007 No. 479

- 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 make provision for the fees payable to licensing authorities in England and Wales under the Gambling Act 2005 (“the Act”) in relation to premises licences issued under the Act. The Regulations provide for licensing authorities to determine the fees, subject to maximum fees prescribed in the Regulations. The Regulations provide for licensing authorities to determine separate fees for different types of activities associated with licences (e.g. application for a licence; application to vary a licence; etc.) and the annual fees payable in respect of a licence. The Regulations also provide for licensing authorities to determine separate fees for different classes of premises licence (e.g. those relating to casinos, bingo halls, betting shops, etc.).

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 premises licences.

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 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 casinos, bingo,

betting, amusement arcades, larger lotteries and the manufacture, supply and use of gaming machines and gambling software.

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 or betting and, in general, it will be an offence to use premises for such a purpose without a premises licence. Premises licences may only be issued to a person who holds a valid operating licence (see below). Premises licences 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 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.

The 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.

- 4.6 In addition to licences, the Act also provides for a number of types of permit, which authorise certain limited forms of gambling provision, i.e. where commercial gambling is not a primary business purpose.
- 4.7 Fees relating to operating and personal licences, together with fees relating to one type of permit, are prescribed in the following statutory instruments:
- 4.7.1 SI 2006/3284 The Gambling (Operating Licence And Single-Machine Permit Fees) Regulations 2006; and
- 4.7.2 SI 2006/3285 The Gambling (Personal Licence Fees) Regulations 2006.
- 4.8 The Act provides for a number of different activities relating to premises licences, and for the payment of fees to licensing authorities in relation to each of those activities. In summary, those activities are as follows:
- 4.8.1 Application for a licence.
- 4.8.2 Notification of a licensing authority that a licensee's address has changed.
- 4.8.3 Application to vary an activity authorised by a licence, a condition attached to a licence, or another detail of a licence.
- 4.8.4 Application to transfer a premises licence from one licensee to another.
- 4.8.5 Application for a copy of a licence.
- 4.8.6 Application for reinstatement of a licence which has lapsed.
- 4.8.7 Application for a "provisional statement" (a type of provisional authorisation on the basis of which the holder may make a later application for a premises licence proper).
- 4.7 The Act also provides for the payment to licensing authorities of prescribed annual fees in respect of premises licences.
- 4.8 These Regulations make provision for the fees payable in England and Wales for each of the activities summarised in paragraph 4.8 above and annual fees. The Regulations provide for the fees to be determined by licensing authorities in England and Wales, subject to maximum fees specified in the Regulations. Under section 212(2)(d) of the Act, in determining fees, licensing authorities must aim to ensure that the income from the fees as nearly as possible equates to the cost of providing the service to which the fee relates. Separate regulations for premises licence fees in Scotland will be made by the Scottish Ministers.

5. Territorial Extent and Application

- 5.1 This instrument extends to England and Wales and applies to licensing authorities in both England and Wales.

6. European Convention on Human Rights

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

7. Policy background

- 7.1 As noted above, the Act sets out a number of licensing authority activities relating to premises licences and provides for the determination and payment of fees in respect of those activities. Ministers announced in September 2004 that in, England and Wales, licensing authorities would determine their own fees for premises licences but that the Secretary of State would prescribe the maximum fee payable for each category of licence and activity. When they come to determine fees, each licensing authority will be limited to setting fees that recover the costs of carrying out their functions under the Act. This will include the costs of administration (including hearings and appeals), inspection, and enforcement. In Scotland, Scottish Ministers will set gambling premises licence fees.
- 7.2 The Department's aims when setting the maximum fees payable for gambling premises licences were:
- to ensure that fees were set at a level that enabled full cost recovery by all licensing authorities;
 - to ensure fairness and value for money for the gambling industry.
- 7.3 In 2006 the Department undertook a fees costing exercise in partnership with licensing authorities to develop a robust evidence base to inform the proposed maximum premises licence fees. Forty-six licensing authorities contributed data and provided feedback, including on the processes they would have to undertake to fulfil their functions under the Act. The Department recognised that this exercise had some limitations. It accepted that there was an element of uncertainty in calculating costs for the new regime before it was fully operational. But the Department considered that this would be mitigated in part by the fact that licensing authorities already had experience of setting fees for a number of other licensing regimes.
- 7.4 Following the initial fees costing exercise, the Department consulted on the following proposals:
- the maximum fees for each type of premises licence activity (see paragraph 4.8 above) and each type of premises licence.
 - that the first annual fee for licences be payable within 30 days of the date on which the licence was issued and that the first annual fee be set at least 25% lower than subsequent annual fees, to reflect the work that licensing authorities would have undertaken when deciding whether to issue a licence (the costs of which were covered by the application fee).

- that licensing authorities refund annual fees on a pro rata basis where a licence ceased to have effect mid-year, or where a licence was varied mid-year with the effect that a lower annual fee became payable in respect of it. It was also proposed that additional annual fees would be payable to licensing authorities mid-year where a licence was varied with the effect that a higher annual fee was payable in respect of it.
- that licensing authorities rated “excellent” or “4-star” under the Audit Commission’s Comprehensive Performance Assessment be entitled to determine fees higher than the prescribed maxima (for instance, where they offered an expedited licensing service in addition to the ordinary service required by the Act).

7.5 The Department consulted on its proposals between 14 November 2006 and 19 January 2007. In recognition of the complexity of the issues involved and the truncated consultation period the Department convened 10 focus groups during the consultation period, bringing together licensing authorities, the industry and other stakeholders. It sought in particular to engage licensing authorities which had not contributed to the fees costing exercise. The Department received 35 formal responses to the consultation from industry and licensing authorities, in addition to feedback provided in the focus groups.

7.6 Industry representatives were very unhappy with the proposed fee maxima. Some had commissioned an independent study of the proposals which argued that the Department’s data collection and analysis (as summarised in the consultation document) was flawed and did not provide a robust basis on which to set the fee maxima. There was also a general suspicion that licensing authorities would automatically charge the proposed maxima. Industry representatives also asked the Department to take account of the independent review on alcohol licensing fees.

7.7 Licensing authorities, on the other hand, did not think the proposed maximum fee for one type of activity would allow them to recover their costs for that activity. There was a mix of views about the other proposed maxima.

7.8 The Department re-considered the proposed maximum fees in the light of the consultation responses. It increased the maximum fee for the activity that licensing authorities were concerned about, to ensure that all licensing authorities could meet their costs. But it reduced the maximum annual fees for all types of premises except new casinos. The changes to the annual fees reflected additional information the Department obtained about the degree of compliance and enforcement work that licensing authorities would have to undertake. Small adjustments were also made to other maxima. In particular, the maximum fee for an application for a provisional statement (a statement issued prior to a licence in respect of premises which an operator expects to build or alter and then operate) is now the same as the application fee for a licence proper. The Department determined that licensing authorities’ processes (and therefore their costs) in respect of the two activities will be the same. The maximum application fee for

an application for a licence by a provisional statement holder was also reduced, to reflect the work that licensing authorities will have already undertaken in determining whether to issue the provisional statement (the costs of which are will have been covered by the provisional statement fee).

- 7.9 Industry expressed concern about having to pay a first annual fee within 30 days of a licence being issued. They argued that this should be payable on the anniversary of the licence (as happened under the Licensing Act 2003). They also felt that if an annual fee is payable within 30 days a 25% discount was not enough. Licensing authorities supported the 30 day timeframe for payment of the first annual fee but did not generally support the proposed discount. Some were concerned that it would be difficult and time consuming to calculate. Others were concerned that they would need the full annual fee to cover the costs of their first year's activities and that a discount would not be appropriate.
- 7.10 The Department concluded that it was right to require the first annual fee to be paid within 30 days of a licence being issued but that it should not prescribe the level of any discount to the first annual fee. Rather, the regulations should be drafted in such a way to enable licensing authorities to offer a discount to the first annual fee, if their costs mandate this. The Department introduced a further discretion, to allow licensing authority to link the payment of the first annual fee to the date on which a licence takes effect, to provide for licences which only become effective on a date after their issue.
- 7.11 There was little or no support for the proposal to give additional freedoms to "excellent" or "4-star" authorities. Furthermore, there were no real suggestions as to what additional services "excellent" or "4-star" authorities might offer over and above the standard licensing service. The responses also identified a risk that "excellent" and "4-star" authorities might use any additional flexibility to set fees above the maxima for the standard service only. The Department also recognised that following the publication of the White Paper on Local Government "Strong and Prosperous Communities" the policy framework was changing. The Department therefore decided that this proposal was no longer appropriate. In reaching this decision, the Department recognised that all licensing authorities will have freedom and flexibility, within the prescribed maxima, to take account of local circumstances when calculating gambling premises licence fees.
- 7.12 Some licensing authorities were concerned that the proposal to pay pro rata discounts or determine pro rata additional payments would place a cost burden on them which they would be unable to recover. It is not yet clear how often a situation requiring a refund or additional payment might occur, but the Department did not consider this would be a regular occurrence. Furthermore, the overall impact on industry of not proceeding with this proposal should be neutral: while operators might benefit from a refund on one occasion they might be obliged to pay an additional payment on another. The Department therefore decided not to include this provision in the Regulations.
- 7.13 Some parts of the industry, in particular those who run holiday parks and seaside arcades, pointed out that they only opened for part of the year and that it did not

make sense for them to pay the same annual fees as “full time” operators. In response to these submissions, the Department decided to give licensing authorities a further discretion to allow them to offer a seasonal discount where appropriate. The Department considered such a discount would be proportionate and fair and would provide a safeguard for this category of small operators.

- 7.14 The Department accepted that it is difficult for licensing authorities to develop a completely accurate cost base before the new Act comes into force. The Department understand the industry’s concern that the new fees may not be fully cost reflective. The Department has therefore undertaken to keep the new fee regime under review. With help from LACORS the Department will collate and publish the fees set by each licensing authority in the first year. It will then carry out a series of case studies looking at each type of premises and each region. The Department will consider whether it needs to adjust the maximum fees up or down from April 2008 on the basis of that review. It will continue to monitor the fee levels in 2008/9 and consider whether a longer term review is needed.

8. Impact

- 8.1 A Regulatory Impact Assessment is attached to this memorandum.
- 8.2 The impact on the public sector is as follows. Licensing authorities are required by the instrument to determine and collect fees relating to premises licences. As stated above, in determining fees licensing authorities must aim to ensure that the income from fees as nearly as possible equates to the cost of providing the service to which the fee relates. Accordingly, the Regulations are intended to have a neutral fiscal impact on licensing authorities.

9. Contact

Frances Macleod at the Department for Culture, Media and Sport Tel: 020 7211 6353 or e-mail: frances.macleod@culture.gsi.gov.uk can answer any queries regarding the instrument.

Regulatory Impact Assessment:

The Gambling (Premises Licence Fees) (England and Wales) Regulations 2007

1. Title of proposal

The Gambling (Premises Licence Fees) (England and Wales) Regulations 2007

2. Purpose and intended effect

- 2.1 These Regulations make provision for the fees payable to licensing authorities under the Gambling Act 2005 (the Act) in relation to gambling premises licences. The Regulations provide for licensing authorities to determine the fees, subject to maximum fees prescribed in the Regulations, and the principle of cost recovery. The Regulations provide for licensing authorities to determine separate fees for the different types of activities associated with licences (e.g. application for a licence; application to vary a licence; etc.) and the annual fees payable in respect of a licence. The Regulations also provide for licensing authorities to determine separate fees for different classes of premises licence (e.g. casino, bingo, etc.).
- 2.2 The Regulations do not apply in Scotland, where Scottish Ministers will set the gambling premises licence.

The Background

- 2.3 The Act gives local licensing authorities responsibility for a number of licensing and regulatory functions in relation to gambling premises. In all of their activities, licensing authorities will be guided by the three licensing objectives in the Act:
- To prevent gambling from 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 other vulnerable persons from being harmed or exploited by gambling.
- 2.4 The Act gives the Secretary of State the power to make regulations setting the fees payable to licensing authorities for gambling premises licences and other miscellaneous fees.¹ The Act also allows the Secretary of State to devolve to licensing authorities in England and Wales the freedom to set the fees for premises licences.
- 2.5 Licences will be issued for a number of different premises types. These are:
- The new regional casino;
 - New large casino;
 - New small casino;
 - Existing casinos;
 - Bingo premises;
 - Adult gaming centres;
 - Family entertainment centres;
 - Betting offices (i.e. betting premises excluding tracks);
 - Tracks;
- 2.6 In addition, local authorities will have responsibility for the following:
- Temporary use notices (for temporary events)
 - Provisional statements
 - Unlicensed Family Entertainment Centre Permits
 - Lottery registration documents

¹ Clauses 159, 184 and 212 of the Gambling Act.

- Club gaming/gaming machine permits
 - Permits for gaming machines on alcohol licensed premises
- 2.7 These Regulations only deal with the fees for gambling premises licences (para 2.3). Fees for permits (para 2.4) will be set centrally and will be dealt with in separate regulations.
- 2.8 Licensing Authorities will start taking applications for gambling premises licences from 21 May 2007. Fees will be payable from then onwards.
- 2.9 The costs of determining and issuing premises licences will be met through a one off application fee. The application fees will include the cost of administration associated with the licence application, including receiving and responding to representations from responsible authorities and interested parties, hearings and appeals. Once the licence is issued it will be of indefinite duration.
- 2.10 Annual fees will also be paid to cover the cost of ongoing administration, inspection and enforcement activity required under the new licensing regime. This fee will include direct costs and indirect costs, including a full proportional share of overhead costs, insurance, depreciation and cost of capital charge.
- 2.11 For the licensing authority this means that the service should be cost neutral. In determining application, annual and other fees licensing authorities must ensure that these are limited to recovery of the costs of carrying out their functions under the Act. Licensing Authorities will be required to review their fees annually to ensure that the income from the premises licences fees in any one accounting period (i.e. in any full year) does not exceed the full costs incurred by the authority in carrying out their relevant functions.

3. Consultation

- 3.1 The Department has consulted on its proposals which it has developed in partnership with licensing authorities and their representative bodies. The Department also cleared its proposals with the Treasury, the Scottish Executive and the Gambling Commission prior to publishing the formal consultation paper on 14 November 2006. The formal consultation period ended on 19 January 2007. During the consultation period we also held 7 consultative meetings with licensing authorities and industry to discuss our proposals in more detail. We received 35 formal responses to the consultation.

4. Options

Option 1: Do Nothing

- 4.1 This is not a credible option. The Act introduces a new licensing regime which gives licensing authorities responsibility for issuing and enforcing gambling premises licences for the first time. They need to meet the cost of providing this service. The Act also imposes a requirement on the Secretary of State to set the fees.
- 4.2 Under the existing regime, the industry does not pay fees for premises licences as such. Some sectors pay for a permit issued by a licensing authority. These will become licensed Family Entertainment Centres and Adult Gaming Centres under the new regime. Others pay for gambling permissions from licensing magistrates. None of these fees are currently calculated on a cost recovery basis. For example, at present a licensed betting office pays £125 for a licence and £25 for a 3 year renewal. This part of the industry, in particular, has benefited from minimal regulation to date. It is therefore inevitable that whichever option is selected licensed bookmakers will face an increase in fees.
- 4.3 Some of the fees paid to licensing magistrates, for example, those paid for a casino also include an element which goes towards the costs of the Gaming Board. Again this is not calculated on a

cost recovery basis. Under the Act the Gaming Board will be replaced by the Gambling Commission which has new powers and responsibilities. In addition to the premises licence fees, the industry will have to pay fees to the Gambling Commission for operating and personal licences. These have already been published in separate Regulations.

- 4.4 In considering this, and the other options, the Department recognises that under the new regime gambling operators have no choice but to apply to licensing authorities for their premises licenses. There is no market for this service and care therefore needs to be taken to ensure that licensing authorities set their fees at a level which reflect value for money principles.

Option 2 – Set a single, national fee for each type of premises licence

- 4.5 Under this option, the Secretary of State would set a single, national fee to be charged for each type of premises licence. This option would provide consistency for the gambling industry, but a single fee would take no account of local circumstance. It would therefore be likely that some licensing authorities would be unable to recover their legitimate costs and the burden of meeting any funding shortfall would fall to the taxpayer. Others might find themselves with a significant profit.
- 4.6 The Department considers that certain types of premises are likely to give rise to a higher level of objections and representations from interested parties² and responsible authorities³ in some areas than others and this would increase the cost of providing the service. For example, an application for a new Family Entertainment Centre may generate a significantly large number of objections in an area where truancy rates among schoolchildren are high, compared to another area where existing FEC premises have never given rise to concern. Additionally, an application for a casino in an area which currently only has one gambling premises (for example, a licensed betting office) may give rise to a large proportion of representations compared to an area with a wide variety of existing gambling establishments.
- 4.7 The Department considers that the greater the amount of relevant representations received by the authority, the greater the cost to the authority in providing the administrative element of the service. Where relevant representations are received in relation to an application these need to be acknowledged and considered. A hearing may be necessary, and if the application is turned down, there may be an appeal. The licensing authority will need to recover the costs associated with all these stages in the process.
- 4.8 Similarly, the Department considers that the level of regulatory risk is likely to differ significantly between authority areas. Factors such as the location of a premises as well as the type of premises are likely to impact on the degree of compliance and enforcement work a licensing authorities may need to carry out. The Department considers that the fee structure should be designed in a way which takes account of this kind of local consideration. There is a risk that a centrally prescribed will not provide that degree of flexibility.
- 4.9 The Department recognises that this option, with fees set based on the size of premises, was used for fee setting under the Licensing Act 2003. However, despite some similarities between the two pieces of legislation, different licensing objectives apply. It does not necessarily follow that the same assumptions will apply to gambling premises.
- 4.10 The Licensing Act 2003 contains licensing objectives relating to public safety and the prevention of public nuisance. As such, under this Act, a licensing authority will need to take into account representations that relate to increased traffic, noise, nuisance and parking problems. These representations will lead to increased hearings and thus greater costs to the authority. However,

²Section 158 sets out that an interested party "a) lives sufficiently close to the premises to be likely to be affected by the authorised activities" and/or "b) has business interests that might be affected by the authorised activities or represents persons who satisfy a) or b)". It is up to the individual licensing authority to determine the definition of "sufficiently close".

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under the Gambling Act 2005, such representations cannot be taken into account by the authority as part of the consideration of the application as they do not relate to the licensing objectives of the Act, which are:

- Preventing gambling from being a source of crime and disorder, being associated with crime or disorder or being used to support crime;
- Ensuring that gambling is conducted in a fair and open way; and
- Protecting children and other vulnerable persons from being harmed or exploited by gambling.

Option 3: Delegate the power to set fees to licensing authorities.

- 4.11 This option would enable individual licensing authorities to determine the fees for premises licences, on a cost recovery basis. It would enable all local authorities to recover their legitimate costs associated with premises licensing. It would give them complete freedom and flexibility. But there would be a risk that different licensing authorities would take different approaches to fee setting. For example some might opt for a generic premises licence fee; others might set a sector specific fee. Some might offer reduced fees for certain categories of premises, for example those which open on a seasonal basis; others may not. This could lead to a significant risk of inconsistency and confusion particularly for the large operators with outlets across the county, who might have to pay fees for the same type of premises such as a licensed betting office, but set on a different basis. This in turn could create an increased administrative burden for industry as it could be complicated and problematic for them to determine the fees that are payable in each licensing area.
- 4.12 Equally, licensing authorities have to abide by internal audit and scrutiny procedures for financial probity. Councils have to monitor their activities in line with best value legislation (continuous improvement having regard to economy, efficiency and effectiveness) and therefore have to look at services in the context of value for money. There is external audit and inspection of the best value regime by the Audit Commission. This includes an annual assessment of use of resources (looking at financial reporting/management/standing, internal controls and value for money). There is a Best Value Accounting Code of Practice to assist councils and ensure consistency.
- 4.13 In addition, the process of fee setting is done in a way which allows the local community, including business operating in the licensing area to be involved.

Option 4: Delegate the power to set fees to licensing authorities, but prescribe a maximum fee to each category of fee

- 4.14 This option is a variant of Option 3. The Department considers that an effective way to ensure a reasonable degree of certainty for industry, while still allowing licensing authorities to set their own fees which reflect local circumstances would be for the Secretary of State to set a maximum fee for each type of premises licence. It would also have the advantage of determining the basis on which a fee is set i.e. by premises type. Nevertheless, the Department recognises that this Option is also likely to result in different fees for the same type of premises in different areas. It may also result in a wide range of fees being set, reflecting the difference in local circumstances. This will not provide the same degree of certainty for industry as Option 2.
- 4.15 There is also the risk that the fee maxima are not set at the right level. If they are too low, some authorities will lose funds and have to subsidise the cost of providing the services. Equally, if there maxima are set too high there is a risk of encouraging authorities to over-price and generate income from the service.
- 4.16 The Department recognises that it is difficult to set fees accurately for a new regime, before it comes into force. Fees for the first year will therefore have to be based on informed projections. Licensing Authorities already have experience of setting fees for a number of different licensing regimes which will inform their fee setting for gambling premises licences. 2007/8 will, in any case, be atypical. The Act does not come into force until 1 September 2007. Existing operators are obliged to apply for new licences which will generate an unusually high number of applications

fees. The fees for applications from existing operators also need to reflect the fact these operators have “grandfather” and “continuation” rights which will make these applications more straightforward than new application, for example they will not be the subject to local representations, and therefore less costly to process and issue.

- 4.17 The Department considers that licensing authorities will only have a clearer idea of the actual costs on the new licensing regime at the end of 2008/9. The Department considers it is essential to include a series of short term checks to ensure the licensing authorities are setting their fees in a way which represents value for money. Under this option, the Department would collate and publish the fees set by all licensing authorities in the first year. This would give an immediate sense of whether the fee maxima are right. If the majority of licensing authorities set their fees at or near the maxima this would suggest either that the maxima were too low, and not allowing cost recovery, or that licensing authorities have over-estimated their costs. The Department would therefore seek to therefore clarify the issues by carrying out a number of case studies in each region, and looking at the full range of gambling premise types to ascertain whether the fees would need to be increased or reduced for 2008/9.

5. Costs and benefits

5.1 Sectors and groups affected

The main existing businesses to be affected will be:

- around 170 casinos;
- 700 bingo halls;
- 2,000 arcades;
- 9,000 betting shops, race tracks and other operators with betting permissions;

Summary of costs and benefits

- 6.1 The new licensing regime will deliver some high level costs and benefits. The new fee regime (for operating, personal and premises licences) will increase the total burden to industry. On the other hand, the move to cost recovery improves overall economic efficiency because it means that the costs more accurately reflect the true cost of regulating the gambling industry.
- 6.2 The increase in gambling, for example from the new casinos, will bring some benefits to suppliers and to gamblers. These are “consumption” benefits (enjoyment for gamblers and profits for suppliers). But expansion of the industry also brings some social costs, as there will be an increased risk of problem gamblers. The Act includes a range of measures, including through licensing authority compliance and enforcement work, which try to lower or eliminate the potential increase in the social cost. Industry will pay for these measures through the fee structure, including an element of the costs of dealing with illegal gambling by the Gambling Commission.
- 6.3 It is less easy to assess with any degree of accuracy, the cost and benefits of the specific options. The current fee regime does not represent fees paid for premises licences. The Department has not calculated the level fees might be set at under Option 2. It notes however, that the Independent Licensing Fees Review Panel concluded that there had been an excess of cost over income during the introduction and implementation of the Licensing Act 2003. The Panel costs this at £43m for the three year period 2004/5 – 2006/7.
- 6.4 The Department cannot accurately assess the cost to industry under Option 3 and 4, until licensing authorities themselves set their fees. The Department has, however, carried out a fees costing exercise to determine the level at which a maximum fee might be set to allow every licensing authority to recover their legitimate costs under Option 4. It consulted on proposed fee maxima as part of the consultation process. It has re-validated its figures based on the consultation responses. This exercise has led to an increase in the proposed fee maxima for fast track applications, as it was clear that the original proposal would not allow licensing authorities to

recover their costs. It also led to some reductions, in particular to the maximum annual fees for all types of premises, except the new casinos.

6.5 Based on this work, the Department has produced the following schedule for fee maxima.

Premises Type	Transitional Fast-track Application Maximum Fee £	Transitional Non-fast track Application Maximum Fee £	New Application Maximum Fee £	Annual Fee Maximum £
Regional casino	n/a	n/a	15,000	15,000
New large casino	n/a	n/a	10,000	10,000
New small casino	n/a	n/a	8,000	5,000
Existing casino	300	2,000	n/a	3,000
Bingo club	300	1,750	3,500	1,000
Adult Gaming Centres	300	1,000	2,000	1,000
Tracks	300	1,250	2,500	1,000
Family Entertainment Centres	300	1,000	2,000	750
Betting Premises(excluding tracks)	300	1,500	3,000	600

	Application to vary	Application to transfer	Application for Re-instatement	Application for Provisional Statement	Licence Application (provisional statement holders)	Copy Licence	Notification of change
Regional casinos	7,500	6,500	6,500	15,000	8,000	25	50
Large casinos	5,000	2,150	2,150	10,000	5,000	25	50
Small casinos	4,000	1,800	1,800	8,000	3,000	25	50
Existing casinos	2,000	1,350	1,350	n/a	n/a	25	50
Bingo Clubs	1,750	1,200	1,200	3,500	1,200	25	50
Adult Gaming Centres	1,000	1,200	1,200	2,000	1,200	25	50
Race tracks	1,250	950	950	2,500	950	25	50
Family Entertainment Centres	1,000	950	950	2,000	950	25	50
Betting premises (excluding tracks)	1,500	1,200	1,200	3,000	1,200	25	50

Costs

- 6.6 Quantification is also possible through the application of standard costs to the known supplier population. Options 2, 3 and 4 involve suppliers in application costs and costs of information provision in equal amount. However, other costs are less equally spread between the options.
- 6.7 Although all options impose administration costs on suppliers through the need to meet the conditions of licences and to meet the costs of inspections, these costs are likely to be much higher in the cases of Options 3 and than for Option 2 and 4. This is because firms operating in a number of licensing authority areas will face a wide variety of conditions and fees with which they will have to comply.
- 6.8 Option 3 is likely to adversely affect competition more than Options 2 and 4. This is because Option 3 is likely to lead to considerable variation in fees between local authorities with the results that firms in high fee areas will suffer at the expense of firms in low fee areas. Hence, they are likely to impose more costs on consumers than Options 3.
- 6.9 Option 2 implies a subsidy to the industry from licensing authorities because the costs of licensing may not be fully met by the industry. Option 3 is likely to increase business uncertainty and so is likely to reduce investment and technical innovation in the industry.

Benefits

- 6.10 The benefits of the regulations lie in the ability to set fees which allow the recovery of the legitimate and efficient costs of regulating the new licensing regime. The benefit to industry is that once a licence is issued it remains valid indefinitely. Industry also benefits greater flexibilities under the new licensing regime. For example, operators will be able to offer gambling facilities for longer hours, which should help offset the cost of the new licensing regime. The benefit to the local community is that it can have a say on premises which are being licensed in their area.

Option 3 and 4 would also allow local circumstances to be reflected in the fees. Option 3 will take account of local conditions but at the expense of inconsistent regulation. Option 2 has the virtue of providing consistent regulation but does not take local conditions or allow community involvement in the process.

(i) Economic

The level of fees should not place an unreasonable burden on industry or damage current business activity. 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. 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 in the current system will be removed. This should help increase competition and the gambling industry is likely to become more cost-effective.

(ii) Environmental

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

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 fee regulations should ensure that licensing authorities are able to fulfil their new obligations under the Act and contribute effectively to the delivery of the licensing objectives, including taking enforcement action as appropriate. Options 2, 3 and 4 will lead to the reduction in gambling harm that is the main aim of regulation. However, only Option 4 satisfies all the subsidiary aims of policy to:

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

It is not considered that any of the options will have any race equality impacts.

(iv) Health Impact Assessment

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

Transfers

- 6.11 Option 3 is likely to involve the transfer of income from large firms to small ones because large firms are likely to have to meet larger administrative costs per unit of income than small ones. Option 2 will see high cost authorities unable to meet the costs of regulation while low cost authorities will make a profit. Large and small firms operating in high cost areas will benefit from the subsidy. Option 2 may involve a transfer of income from large companies to all licensing authorities. Option 4 means that income is transferred from small firms to large ones. This is because all premises, large or small, will pay the same licence fee. The result will be a higher cost per unit of income on small operations than on large ones.

Competition Assessment

- 6.12 It is theoretically possible that the premise licence fees will directly or indirectly limit the number or range of suppliers. However, although conceivable it is not considered likely.

- 6.13 Premise licence fees raise the costs of firms engaged in the gambling industry. It is possible, although considered unlikely, that these fees and charges will be sufficient to force some sub-marginal concerns out of the industry. It is also conceivable that some potential new entrants will be dissuaded from entering the gambling market. This latter effect might be exacerbated if the premises fees are at such a level that they set a minimum level of business needed to be attained in order to profitably enter the industry. If these occur then competition in the industry may be reduced and customers could be faced with lower quality service at a higher price than otherwise would be the case. Although theoretically possible this outcome is not judged to be probable for several reasons.
- 6.14 First, the licence fees are relatively small compared to the turnover of all but a handful of small gambling businesses many of which are likely to fall within the permits regime. Second, the gambling industry is thought to enjoy considerable economies of scale in risk-taking so small businesses are, in any case, at a disadvantage with large firms regardless of the structure of licence fees. Third, the proposed licence system involves the removal of a significant subsidy to the gambling industry, which, at present, may be limiting the competition that industry faces from the rest of the entertainment sector. Fourth, the fees are maxima and licensing authorities can set fees below them should local business conditions dictate provided the licensing objectives of the Gambling Act are achieved.
- 6.15 It is considered highly unlikely that the premises licence fees will limit the ability of firms to compete or reduce incentives for vigorous competition. The premises licence system will limit the ability of gambling firms to engage in certain activities or to supply under-age persons. However, these restrictions already exist and are integral to securing the reduction of gambling harms.
- 6.16 It is possible that the premises licence system will affect the nature of innovation in the industry. For example, if fees were uniformly set at high levels then it may be that it will be necessary for premises to be of a minimum size in order to remain within the market. In that case, the capital requirements of the industry may change with the result that sales will become further concentrated in large firms operating large premises which may pose greater risks to the licensing objectives. This is a theoretical possibility only and is regarded as unlikely because licensing authorities are expected to take local conditions into account when they set fees. Hence, it is not expected that the maximum allowable fees will become the norm.
- 6.17 It follows that it is judged that competition in the gambling industry is unlikely to be adversely affected by the premises licence fees. Indeed, by removing a significant area of subsidy it is expected that competition between the gambling industry and other parts of the entertainment sector will be increased.
- 6.18 This sharp rise in charges means that it is conceivable that some marginal suppliers might be induced to leave the industry as a result. However, even where if it does occur, such exits are considered unlikely to have a major effect on competition in the industry as a whole because of the small scale of the firms likely to be concerned. In any case, any such effects that do occur are likely to be confined to local or seasonal markets.
- 6.19 No other effects on competition are considered possible.
- 6.20 The costs and benefits of the four options are summarised in the table. Increased benefits are indicated by a plus sign, and reduced costs are indicated by a minus sign.

	Option 1	Option 2	Option 3	Option 4
COSTS:				
Application	0	+	+	+
Information	0	+	+	+
Administration	0	+	++	+
Competition Effects	+	+	++	+

Industry Subsidy	+	++	0	+
Business Uncertainty	+	0	++	+
BENEFITS:				
Harms Reduction	+	+	+	+
Consistent Regulation	-	+	-	+
Local Conditions	-	-	+	+
Community Involvement	-	0	+	+
TRANSFERS (from -, to +):				
Low cost authorities	0	+	0	0
High Cost authorities	0	--	0	0
Large businesses	-	+	-	+
Small businesses	+	+	+	-
Patrons	0	0	0	0

7 Small Firms Impact Test

7.1 Trade organisations that have both large and small operators as members have been consulted on the fees policy. We have also consulted the Small Business Service (SBS). We recognised that industry is concerned about the cumulative impact of Gambling Commission and premises licence fees. In particular, concerns have been raised about the impact on singleton or small operators of betting shops, as well as on seaside arcade some of which are small family businesses and many of which operate on a seasonal basis. We have addressed these concerns by recommending that a licensing authority should consider offering a discount for premises which are only open for part of the year.

8 Competition assessment

8.1 The Department recognises that the fee maximum for applications from existing operators, under their grandfather rights is beneficial. It could be argued that this will give existing operators a competitive advantage over applications from new businesses. While the Department recognises this, it does not consider this to be significant, bearing in mind that existing operators will still have to pay the full maximum fee.

9 Enforcement, sanctions and monitoring

9.1 The Act requires all licensing authorities, when setting premises licence fees, to ensure that the income from fees as nearly as possible equates to the cost of providing the service to which the fee relates, including a reasonable share of expenditure which is referable only partly or only indirectly to the provision of that service. As such, authorities that do not adhere to the principle of cost recovery will be vulnerable to legal challenge.

9.2 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.

10. Declaration

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

Signed.....

Date.....