

Modernising Britain's gambling laws

In the second part of a series on the draft UK Gambling Bill, this article looks at the powers and role of the Gambling Commission which will be established by the Bill.

Powers and flexibility

The Gambling Commission will have a formidable armoury at its disposal to regulate gambling as follows:

- The Commission will determine its own policy and procedures for its licensing and regulatory functions.
- It will issue policy statements, codes of practice (for example in relation to social responsibility) and guidance (for example to local authorities in relation to the licensing of premises for gaming).
- The Commission will advise Government on the success and social impact of gambling law reform, whether the Government wants it or not.
- It may impose general or individual conditions on classes of licences and, where necessary, on specific operators. It will also be given the power to set the length of operating licences up to a maximum duration of ten years.
- The Commission will have powers to review licences where it believes conditions have been breached or where it believes the licence holder is no longer suitable.
- Sanctions available to the Commission will include the ability to issue formal warnings to licence holders, to vary licence conditions, to impose a financial penalty of any amount or to revoke the licence.
- The Commission's inspection staff will have statutory powers of entry, search and seizure when exercising their enforcement functions.
- The Commission will have extensive enforcement powers to tackle illegal gambling and will be able to initiate criminal proceedings.

The Government recognises, however, that strong powers are not in themselves sufficient to regulate effectively. The Commission must also be flexible and this is one of the key characteristics of the new regime. Much of the detail of existing gambling regulation is set out in primary and secondary legislation. As a result, it has been extremely difficult, particularly in recent years, for the Board to respond effectively to technological developments and innovations in the gambling industry generally. The introduction of live entertainment in casinos and alcohol on to the gaming floor, the emergence of automated roulette and fixed odds betting terminals and the regulation of internet gaming could all have been handled more effectively if there had been a greater degree of flexibility under the existing system.

The Government is naturally keen to prevent a recurrence of any similar problems. Whilst the draft Clauses are very precise in stating the licensing objectives and delineate clearly the powers of the Commission and the rights of operators and individuals, there is flexibility to react to changing circumstances and to continually improve standards within the gambling industry. Some examples which illustrate the degree of flexibility inherent in the new system are as follows:

- The internet, interactive television and mobile telephones were not contemplated by the gambling legislation passed in the 1960s and the Board, the courts and operators have struggled to apply that legislation to new technologies. The definition of 'remote gambling' in the draft Gambling Bill is, however, broad enough to encompass modern means of communication and "any other kind of electronic or other technology for facilitating

communication" which may be developed in the future.

● Under the existing system, detailed rules are prescribed in primary and secondary legislation as to how licensees may conduct their businesses. Under the new system, the Commission will have the ability to attach conditions to operating and personal licences and to issue codes of practice. The Commission will have the flexibility to tailor conditions to classes of licence holders or individual licensees.

● Further, breach of a code of practice such as the proposed code of social responsibility is likely to amount to breach of a licence condition and the Commission will be in a position to take action immediately. The Government believes that codes, rather than legislation, can often be a better way to improve standards amongst operators, particularly as operators will have been consulted before issuance of the codes.

● The wide range of sanctions available to the Commission will allow it to take action commensurate with the level of breach where previously revocation may have been the only sanction available to the Board.

Conclusion

The draft Clauses provide further evidence of careful deliberation in Government in relation to gambling law reform. The Government intends that the draft Clauses, when implemented, will establish a modern regulator in the form of the Commission and equipped with the strong powers and flexibility to achieve the three 'licensing objectives'. The gambling industry awaits the rest of the draft Gambling Bill, which will address more contentious matters, with interest.

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