

Economic Development White Paper

PURPOSE OF CONSULTATION The purpose of these consultation papers is to give the public an opportunity to guide the development of new law and policy for the gambling industry in Jersey. This consultation paper sets out the issues and suggests questions which - if you answer them - will provide useful information for the Shadow Gambling Commission. It is important that the shadow Commission gets your views and that you take the time to think about the issues in this paper and what it means to you and your Island. This is your chance to say exactly what you think.

DEADLINE FOR RESPONSES

Friday, 3rd August 2007

SUMMARY / QUESTIONS TO CONSIDER

The States has agreed in principle to modernise outdated gambling legislation. Broadening the Industry, the first in this consultation series, discusses what is currently permitted in Jersey, the restrictions placed upon the industry and the introduction of new forms of gambling.

This paper discusses:

- Existing limitations on licensed betting offices (LBOs) and asks whether these restrictions are still required.
- A wider range of gaming machines that offer different games and larger jackpots and whether these machines should be permitted in Arcades or remain wholly inside LBOs.
- Permitting and licensing commercial card clubs.
- The regulation of online gambling.
- Alternative forms of gambling such as commercial bingo and casinos do not form part of the modernisation plan for gambling, but the paper concludes by seeking opinions on this form of gaming.

Regulatory Principles are discussed in the second paper in this consultation. The shadow Commission believes regulatory principles for a well regulated jurisdiction should ensure the vulnerable and young are protected; gambling is transparent and fair; gambling is protected from criminal involvement, and gambling is accountable and subject to audit. The shadow Commission proposes:

- That a licensing regime is adopted for LBOs and also for organisations that have any direct contact with gambling related devices e.g. internet hosting providers, gaming machine suppliers, etc.

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- Current licence fees should be raised to a level that better reflects the realistic cost of regulation.
- The creation of a levy on gambling income dedicated to providing resources for the treatment, monitoring and research of gambling related harm.
- The introduction of civil powers to fine licensees for less serious misconduct.
- The paper concludes by asking for views on an advertising policy for gambling in the Island.

Harm Reduction is the focus of the third consultation paper. Gambling can be a problem for a small number of people and the shadow Commission is recommending that future gambling policy should be based on a strategy of education, counselling and research.

The shadow Commission discusses:

- Education is vital to both support those who have a problem and help prevent others from developing one.
- Whether the reality of gambling should form an educational programme for schools
- The extent of information an adult should have to inform them whether they want to gamble or not.
- Support groups for gamblers.
- The information gambling establishments should provide.
- How to introduce self exclusion from gambling establishments.
- The shadow Commission proposes the creation of a specific fund for this education, counselling and research strategy and asks for opinions on alternatives for funding these schemes.

There is no rule on the reading order of the papers, but it is recommended that you start with the first paper, “Broadening of the Industry”.

FURTHER INFORMATION There are three consultation papers: “Broadening the Industry” is the first, “Regulatory Principles” is the second and the third paper is “Harm Reduction”. All papers are available from www.gov.je (Government web site), the States bookshop, the public library and the Economic Development Department at the address below. Comments received by the 3rd August will be analysed and used to inform the drafting of the new gambling law.

SEND COMMENTS TO

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This consultation paper has been sent to the following individuals / organisations:

The Public Consultation Register
 All States Members

All Parish Halls

General Practitioners (GPs)
 Representatives of the various faith groups
 Gambling Industry representatives

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Gambling Assembly
States Police and all States Departments
Jersey Race Club
Breweries

Community Counselling for Jersey Trust
Chamber of Commerce
Jersey Hospitality Association

SUPPORTING DOCUMENTS

Broadening of the Industry
Regulatory Principles
Harm Reduction

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Background

A new gambling law for Jersey is urgently required. Since the present law was approved in 1964 the worldwide gambling industry has seen many developments and changes. Forty years ago many people took a very different view on gambling than they do today. The current law is cumbersome and complicated, putting large numbers of rules in place to cover social and club gaming (such as raffles and bingo) whilst doing very little to regulate the professional gambling industry.

The States has already decided (March 2005) that it wants a new gambling law, but there is debate about what should be in it. For that reason, the Minister for Economic Development approved the creation of a shadow Jersey Gambling Commission to make recommendations from a professional and independent perspective.

The shadow Commission has produced 3 papers to help Islanders put their views across in an informed way. [This paper is about Regulatory Principles](#). The shadow Commission wants to know your views about the types of regulation in the Island in order to obtain a balance between protecting the young and vulnerable and allowing freedom of action and greater choice.

The other papers are about types of gambling and harm reduction. Please look at these papers as well if you want to and send us your views.

Shadow Jersey Gambling Commission

On the 15th December 2006 the Assistant Minister for Economic Development announced the appointment of three Commissioners to sit on the shadow Gambling Commission. The role of the shadow Commissioners is to prepare for the transition to a statutory Gambling Commission and to advise the Minister and Assistant Minister for Economic Development on changes to the Island's gambling laws.

The shadow Commissioners will work with senior managers within the Economic Development Department to ensure that:

- Jersey retains its excellent international reputation as a well regulated jurisdiction;
- business growth and investment is encouraged; and
- potential harm is minimised and programmes introduced to protect the young and the vulnerable.

Regulatory Principles

Gambling is now generally viewed as a leisure activity where people can try their luck in a lottery, bet on sports events or, locally, Crown & Anchor. Currently, the only form of commercial gambling allowed in the Island is betting at a bookmakers or the race track at Les Landes. All other forms, like the Channel Islands Lottery, Crown & Anchor, bingo are allowed, but only where the profits are for charitable causes.

Although the current legislation is prohibitive, it still maintains the current industry at a profitable level. The shadow Commission recognises that good regulation both protects the public and maintains a healthy, viable industry. Commercial gambling organisations have to conduct their gambling business according to the principles outlined by the current legislation. With the broadening of the industry (consultation

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paper no.1) if other forms of gambling are accepted, the shadow Commission thinks that the regulatory principles should aim to ensure that:

- the vulnerable and the young are protected;
- gambling is transparent and fair;
- gambling is free from crime; and
- gambling is accountable and subject to audit.

The shadow Commission thinks that the above principles outline the basis for a good regulatory regime, ensuring that youngsters are not exposed to gambling, the vulnerable are protected, that gambling rules are clear and available to the player, that gambling is fair, free from crime and subject to professional audits.

If the broadening of the gambling industry is pursued, the shadow Commission is suggesting to the Assistant Minister for Economic Development that the above principles should form the basis of drafting the new gambling law.

Licensing

Licensed Betting Offices (LBOs)

Currently every LBO, credit betting office (this is a telephone betting office where the public is not allowed) and betting office manager have to be licensed. A licence can be held by a corporate body (e.g. a company) and every betting office must have a named manager. There is a rigorous licensing process which involves both the company and the manager being scrutinised as “fit and proper” to conduct a gambling business in the Island. A fee is charged to the applicant to conduct the necessary background checks (probity). Fees are considered in the next section.

The shadow Commission’s view is that licensing should not just be restricted to a company and managers, but that it should also cover all staff who have direct contact with the gambling player, cashiers or cash handling staff and any other staff member who has or might have a direct influence on the outcome of the bet or game. The shadow Commission also thinks that the current probity fee structure needs to be revised.

The shadow Commission is supportive of continual probity on individual licenses and proposes that these licenses should be reviewed every 3 to 5 years. The shadow Commission is interested in your view on the review time; is 3 to 5 years an acceptable timeframe?

Internet Gambling

The States have already decided, in principle, to support the introduction of internet gambling. Companies that operate on the internet do not have cashiers or cash handling staff; instead all gambling transactions are electronic and gambling is conducted via the home or remote computer.

The shadow Commission is suggesting that in the new law, if internet gambling is allowed, the licensing regime should be extended to IT staff. What the shadow Commission would like to know is whether IT staff should follow the same licensing regime as cash handling staff? Are there other IT or non-IT staff who should be licensed e.g. those who monitor the servers, firewalls, backup systems for example?

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Hosting Providers

The shadow Commission is also interested in your views on the licensing regime for hosting providers. A hosting provider is a locally based company that offers hosting services to internet gambling companies. A hosting service is a physical space in a building where a hosting company can put their computers and use them to provide gambling on the internet. The shadow Commission would like to suggest that under the new law hosting companies cannot offer hosting services to gambling companies unless the hosting company has a licence and the appropriate probity check has been completed. Do you think it is reasonable that hosting provider staff be licensed and follow the same regime as betting office cash handling staff?

Gaming Machines

The current legislation allows gaming machines (fruit machines) to be located in licensed betting offices. This type of machine pays a maximum of £25 with a stake (bet) of up to 30p. Betting offices can have a maximum of 2 fruit machines. Currently all fruit machines need to be licensed on an annual basis.

Most machines are imported from the UK, using a local company to provide installation, maintenance and support services. Companies that are allowed to have fruit machines more often than not opt to hire the machine over buying it. This ensures a continual flow of different machines and games in case of a breakdown or the game not being popular. All machines must have the ability to record and store certain play events in case of dispute. The shadow Commission is currently considering a central monitoring system for all gaming machines and is interested in your view if all types of fruit machines should be linked to such a system? If the industry were to pay for it, should it come from their ordinary licence fees or some other method such as a levy?

When machines were first allowed in licensed betting offices, local suppliers were vetted and permissions granted for the supply, maintenance and support services, but since then no other probity has been done.

The shadow Commission would like your views on whether you think that all fruit machines should be licensed on an annual basis. The shadow Commission also wants to know whether machine suppliers should be licensed on an annual basis and that probity should be reviewed after the initial licence as been granted. The shadow Commission is also interested in your views on whether the licence regime should be extended to the non-local companies that supply machines to the local distributors and operators.

Charities and Clubs

The current legislation allows gambling to be conducted by charities, clubs or societies as long as the proceeds of the events are not for commercial gain. All charitable organisations that want to run gambling events have to register on an annual basis with gambling control. Permission has to be sought for any event that the charity wants to conduct. For lotteries and bingo financial returns have also to be submitted to gambling control.

The shadow Commission views this process as very cumbersome and in need of streamlining. The shadow Commission is interested in simplifying the process by suggesting that there is no need for charities to register on an annual basis. Instead,

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gambling control would process new or renew applications from bonafide charities, clubs and societies on or before the anniversary of the previous application. The application should stipulate all the events that the organisation intended to run during the year and financial returns would be needed to be submitted once the event had taken place. A charity, club or society would be able to apply for further events as it saw fit.

Do you think that there are any other changes that the shadow Commission can put in place to balance protection of the public with what is, generally speaking, a low risk and publicly acceptable form of gambling?

Fiscal Impacts

Gambling businesses that operate from Jersey currently pay licence and probity fees. However, the gambling licence fees have remained unchanged for eight years and the machine licence fees have not been increased since their introduction in 2001.

The shadow Commission has recommended that all fees should be raised to levels that better reflect the realistic cost of regulation and are more in line with other jurisdictions.

Probity fees are intended to cover the costs of background checks and this type of service is normally provided by specialised companies. Due to these extra costs the shadow Commission believes probity fees should be reviewed on an annual basis.

The shadow Commission is also interested in your views on a small levy being imposed on gambling income to provide funding for treatment, monitoring and research of gambling related harm (consultation paper no.3 harm reduction). What sort of level should this be and should it be applied to turnover or just to profits?

The shadow Commission is very interested in your views on how the Island will be able to maintain a balance between a viable gambling industry while maintaining a good regulatory regime.

Sanctions and Penalties

The shadow Commission believes that all the organisations that the proposed Commission licenses need to be held fully accountable for their actions. At present, it is up to the Attorney-General to decide on prosecution if a breach is considered serious enough. This is an important power which will remain. However, there can be many smaller issues that should not go to Court, but which also should not be ignored.

The shadow Commission believes that the proposed Commission should have a civil power to fine licensees for less serious misconduct instead of having to take a criminal route. Do you agree? What sort of penalties do you think would be appropriate? Should a different standard be applied for the professional industry compared to charity events?

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Advertising

The shadow Commission is interested in your views on locally based gambling advertising. The current law forbids advertisements. Should advertising keep its restrictive nature or should it be relaxed? If advertising were to be relaxed, what forms of advertising should be considered and where? The new gambling law in the UK relaxes its rules on advertising standards. Jersey gets most of its newspapers from the UK and, therefore, gambling advertisements already reach most of the Jersey adult population.

Should locally based publishers (JEP, 24x7) continue to be banned from advertising gambling, whilst UK publications can include gambling adverts? Should there be different standards for commercial operations and charity/social events?

Questions

Many of these questions are phrased in such a way that they are quite specific. However, the shadow Commission do not want you to feel restricted by these questions and if you feel that other matters are important, please feel free to include them either by a particular question, or at the end.

Regulatory Principles

- If new forms of gambling are allowed in the Island, do you think the principles discussed in this paper are a good starting point for a new regulatory regime?
The principles proposed are that:
 - the vulnerable and the young are protected;
 - gambling is transparent and fair;
 - gambling is free from crime; and
 - gambling is subject to audit and accountable.
- What else might be considered to achieve an appropriate regulatory regime?

Licensing

- Should charities, clubs and societies be registered with gambling control?
- Should charities, clubs and societies need a licence before being allowed to undertake gambling activities?
- Do you think that staff who are directly involved in gambling should be licensed by the proposed Commission?

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- How often should probity be conducted on staff who require a licence?
- Should the same probity regime be used for all staff?
- Should a centralised monitoring system for gambling machines be introduced?
- Should machine suppliers be licensed?
- If so, how often should the machine supplier's licences be reviewed?
- Charity and society gambling is considered low risk. Do you think that continued regulation is required?
- If not, who should regulate disputes?

Fees

- How should fees be determined?
- How often should fees be reviewed?
- Should the proposed Commission impose a small levy on gambling income to provide treatment, education and research for gambling related harm?

Sanctions

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- Do you think that there should be a scale of fines for breaches of the law as well as the current criminal penalties?
- If so, what kind of penalties do you think would be appropriate?
- Should charities and societies be subject to the same penalties as commercial business if they break the law?

Promotional material (advertising)

- Do you think that local publications should continue to be banned from advertising gambling locally?
- Should there be different advertising rules for commercial operations and charitable organisations?
- Should there be different rules for different types of media (e.g. print, internet, broadcast, etc...)?

Please provide any other information that you see relevant to this consultation paper.

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Have your say

We would be delighted to receive your views on the questions we have posed, or on any other aspect of this consultation document. The consultation period will close Friday, 3rd August 2007.

Please send your responses to our questions, and any other comments you wish to make to the following address

Shadow Jersey Gambling Commission
26-28 Bath Street
St. Helier
JE2 4ST

Or click on the link to e-mail us at gambling@gov.je

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Appendix: Regulatory Principles

The present international philosophy governing gambling law reform is based upon simple principles translated into sound regulation. There is no better example of the international will for shared standards than the first International Summit on Remote Gambling which took place in Ascot in October 2006. Deputy MacLean was one of 25 Ministers committing their jurisdictions to signing up to the following high level principles agreed at the Summit:

- That remote gambling should be conducted responsibly and with safeguards necessary to protect children and vulnerable people;
- That remote gambling should be regulated in accordance with generally accepted international standards to prevent fraud, money laundering and should not be permitted to be a source of crime;
- That remote gambling, where offered, remote gambling should be verifiably fair to the consumer.

Jurisdictional Approaches to Regulation

Gibraltar

Gibraltar recently repealed its outdated Gaming Act 1968. Now all commercial gambling operations in Gibraltar must be licensed under the Gambling Act 2005. The licensing authority is the Gibraltar Gambling Commission and the Act grants the Gambling Commissioners powers to certify that licensees conduct their gambling business in accordance with the conditions of their licences.

The Government of Gibraltar made this change to provide a modern legal framework for the licensing and regulation of the gambling industry and ensure that "Gibraltar remains the world's foremost reputable jurisdiction for virtual and online gambling"¹. The new regulatory regime, apart from concentrating on enforcement provisions and the appointment of investigators, also stipulates:

- Computer equipment used for gambling must be kept in premises which are secure and free from access by unauthorised persons.
- 'Responsible gambling' is a key issue and any gambling website under licence in Gibraltar is required to contain a direct link to an organisation dedicated to assisting problem gamblers.
- A licence holder must designate a named person to be responsible for formulating responsible gambling policies and persons must be warned that they should not gamble beyond their means.
- A gambling website must display the full name of the licence holder and the address from which he carries on business, and avoid advertising which is "false, deceptive or misleading."

¹ Chief Minister Peter Caruana, who has ministerial responsibility for gaming, stated that: "This Government has always attached and continues to attach considerable importance to the protection of Gibraltar's jurisdictional reputation, as well as to providing an operating environment that protects the corporate reputation of gaming companies established here."

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- In an effort to curb any money laundering, the new law stipulates that if there is suspicion of money laundering, the licence holder is given 24 hours to inform the Gambling Commissioner.

This statutory licensing and regulatory framework has attracted some fifteen gaming companies which in turn has enhanced the jurisdictions ecommerce facilities.

Malta

Like Jersey, Malta has a long tradition of gambling legislation but the introduction and popularity of online gaming, spurred the government into regulating gambling under a single comprehensive Act.

The Lotteries and Other Games Act, 2001 aimed to bring all gaming activities, with the exception of land-based casinos, under one comprehensive law. The Act gives the regulator, the Lotteries and Gaming Authority, a wide range of powers to apply effective regulation, but the onus is on regulation through licensing.

The Lotteries and Gaming Authority sets out its purpose under three headings: Aims, Objectives and finally Activities e.g. how to achieve those Aims and Objectives.

Aims

- Protecting minors and vulnerable persons;
- Safeguarding the rights of the player;
- Promoting responsible gaming in a safe environment;
- Ensuring the integrity of games and gaming devices;
- Keeping gaming free from criminal activities.

Objectives:

- Consolidate all the regulatory functions relating to gaming activities;
- Operate a successful and a fully integrated Authority;
- Support the industry and technological innovation;
- Provide authoritative and accessible information;
- Provide a centralised licensing regime.

Activities:

- Conducting research on various aspects of gaming;
- Granting licences relating to gaming and lotteries;
- Monitoring licensed gaming;
- Collecting gaming taxes on behalf of the Government;
- Supporting good causes;
- Ensuring that the sector contributes to the country's development.

Most types of gambling are permitted by licence in Malta: casino gaming, online/remote gambling, betting, commercial bingo, amusement machines, lotteries and consideration is being given to the introduction of licensed card rooms. The licensing regime has proved so successful that in 2006 licence fees combined with collected gambling related duty fell just short of matching the yearly profits of the Central Bank of Malta i.e. E35 million.

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Conclusion

Although the application of regulatory principles may differ from jurisdiction to jurisdiction, the ethos remains the same: protection of underage and vulnerable persons, fairness for the player and keeping out criminal influences. Licensing remains the key to good regulation and the fact should not be overlooked that most gambling operators actively seek out jurisdictions where government and regulators support the industry and its needs while protecting the young and vulnerable.

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