



**An update on
the Parliamentary progress of
the Gambling (Licensing and Advertising) Bill**

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An Update on the Parliamentary progress of the Gambling (Licensing and Advertising) Bill

**By David Clifton & Suzanne Davies (Clifton Davies Consultancy Limited)
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The circumstances giving rise to, and a summary of the content of, the Gambling (Licensing and Advertising) Bill is set out in our separate article entitled "A solution looking for a problem: the future regulation and taxation of remote gambling in Great Britain". The Bill has now reached the House of Lords Grand Committee stage. A first "line by line examination" of the Bill took place on 14 January 2014.

A number of proposed amendments were debated but all were withdrawn. They were as follows (with in each case a summary of the Government's stated position).

1. A power to extend the horserace betting levy to overseas bookmakers.

The Government considered the proposed amendment to be too narrow in scope to offer the flexibility it would need to reform the existing system and replace it with a more commercial arrangement between racing and betting that is *"fair, sustainable, enforceable and legally sound"*. However, such a replacement has *"yet to emerge"*. The Government also considers that by reason of the levy constituting state aid, any substantive alteration to the system would require approval by the European Commission.

2. The ability for a casino to offer a customer access to its own legitimate online business if the customer is inside its bricks-and-mortar casino premises, it being suggested that *"it is nonsense for it to be legal to play on one's own personal device in the middle of a casino building but not to play on a device provided by that casino"*.

This proposed amendment was based on a belief that the Government has it in mind to allow this change, but only by means of secondary legislation. The Government response was that it is not rejecting the casino industry's remote gambling proposals, but they want the DCMS first to complete its initial discussions with the industry, in which it is *"considering the sector's flexibility and modernisation proposals"*. This initial stage of discussions will be concluded by the end of March, following which the Government says the *"issue of gaming machines and remote gambling provision in casinos should be reviewed, but must be progressed in a considered and balanced way"*.

3. Consultation on, and implementation (within two years of the change to the law coming into force) of, a system of standardised self-exclusion for remote gambling

The Government takes the view that, in principle, the software exists to set up a central self-exclusion scheme, but that there are wide ranges of practical and legal issues to be resolved. There would also be a need for a trusted third party to run the central list and oversee the scheme. As matters stand, the Gambling Commission has asked the Responsible Gambling Strategy Board to look at the effectiveness of self-exclusion as a tool and how it could be improved and the Responsible Gambling Trust is due to report its findings in March. Further steps will be developed once these findings have been considered and remote operators are brought within the regulatory oversight of the Gambling Commission.

4. A licence condition requiring a sports spread betting operator to report to the Gambling Commission and to sports governing bodies any activity (including financial transactions) which the operator considers suspicious (whether or not that information is relevant to any ongoing criminal investigation).

The Government does not believe that at this stage there is a case for fundamental change to the existing arrangements or that non-legislative options for strengthening sports integrity have been exhausted.

5. A prohibition on credit and financial institutions accepting payments to and from unlicensed remote gambling organization

Both the Government and the Gambling Commission are confident that the proposed legislative changes contained in the Bill can credibly be enforced. The Government is therefore not convinced that there is evidence of a problem that requires a legislative solution, although it does not want to rule out the use of blocking tools in future, should they become appropriate, necessary and demonstrably effective.

6. Licensing powers in relation to Category B gaming machines

The Government takes concerns about FOBTs very seriously and is prepared to introduce precautionary measures to make them safer, if necessary. It is undertaking urgent work to establish how these machines can be made safer, especially to those individuals who may be at the greatest risk of harm. Enhanced player protection measures will be introduced from 1 March, and research is being carried out by the Responsible Gambling Trust to identify where there is robust evidence that consumers may be experiencing harm. The Government will report on this issue “in the spring” and has set out its evidence-based approach to determining the future of FOBTs.

7. The conduct of a review of the connection between non-paying social networking media gambling activities (ie “social gaming”) and use of licensed remote gambling operations, including whether such non-paid for activities can act as an inducement to participate in paying activities.

The Gambling Commission has already commissioned and published a review of what is known of the potential risks and has been working with the Responsible Gambling Strategy Board and the providers of social gaming to analyse the data on players and assess the potential impact in relation to problem gambling-type risks. This approach should help the Government to decide whether there are elements of social gaming that need to be addressed by either the Government or the Commission. In the meantime, the Government believes that to legislate on this issue at this stage would be premature.

8. A consultation on appropriate ways to require licensed remote gambling operators to disclose the amounts held by them for a period of more than one calendar year by way of unclaimed winnings and in dormant accounts, with a view to this money being put to “good use”, eg into research on treatment for problem gambling.

Once enacted, the Bill will make significant changes to the regulation of a large number of betting accounts. After this has occurred, the Government

will consider the recommendations of the Foster report (published in 2011) that identified the levels of funds involved.

9. A requirement that holders of licences for remote gambling operations shall participate in a programme of research into and treatment of problem gambling

The Government believes that the best solution is for the gambling industry to recognise its responsibility to voluntarily contribute to the research, education and treatment of problem gambling and to continue to help to tackle problem gambling. The current voluntary arrangements in this respect were revised as recently as 2012 and the Government is satisfied that the system is working as was intended when recommended in the Budd report of 2001.

10. A review of social responsibility provisions of codes of practice in order to compare British codes and technical standards with those of other whitelisted and EEA jurisdictions, with a view to identifying where the former fall short and to “make good the difference”.

The Government is confident that the British regulatory system is “a model of international best practice” and that the Gambling Commission’s requirements are “robust and of the highest standard”. The Commission always has its licensing conditions and technical standards under review and a response is awaited following its latest consultation. It has had a series of meetings with regulators in Gibraltar, the Isle of Man and the States of Alderney to establish ways to minimise duplication, including use of a multijurisdictional business form. It also has memorandums of understanding in place with several regulators, including Alderney, for the sharing of information between regulators, which will enable the Commission to use any licensing, compliance and enforcement information to determine the suitability of an operator to hold, and continue to hold, a British licence.

We will continue to report on further developments as they occur but in the meantime please do not hesitate to contact us if you have any enquiry arising from the above.

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