



Law Society
of Scotland

Consultation Response

Department of Culture, Media and Sport - Review of
Gaming Machines and Social Responsibility
Measures - Call for Evidence

1 December 2016



Introduction

The Law Society of Scotland is the professional body for over 11,000 Scottish solicitors. With our overarching objective of leading legal excellence, we strive to excel and to be a world-class professional body, understanding and serving the needs of our members and the public. We set and uphold standards to ensure the provision of excellent legal services and ensure the public can have confidence in Scotland's solicitor profession.

We have a statutory duty to work in the public interest, a duty which we are strongly committed to achieving through our work to promote a strong, varied and effective solicitor profession working in the interests of the public and protecting and promoting the rule of law. We seek to influence the creation of a fairer and more just society through our active engagement with the Scottish and United Kingdom Governments, Parliaments, wider stakeholders and our membership.

The Society's Licensing Law Sub-committee welcomes the opportunity to consider the Department for Culture, Media and Sports consultation: "Review of Gaming Machines and Social Responsibility Measures". The Sub-committee has the following general comments to put forward for consideration. We have responded where we feel we can usefully contribute.

General Comments

In August 2015, the Scottish Parliament's Local Government and Regeneration Committee held an inquiry¹ into the level of control in respect of "Fixed Odds Betting Terminals". The inquiry was undertaken as part of the Local Government and Regeneration Committee's consideration of clause 45 of the Scotland Bill (subsequently Section 52 of the Scotland Act 2016). The Society provided written² and oral³ evidence to the Committee.

Section 52 of the Scotland Act 2016 created a specific exception into Section B9 of Part 2 of Schedule 5 to the Scotland Act 1998, so that the Scottish Parliament has legislative competence to vary the number of certain gaming machines authorised by a betting premises licence. The Secretary of State's function to vary the number of those same gaming machines in Scotland was transferred to the Scottish Ministers. The functions conferred on the Secretary of State by section 236 of the Gambling 2005 Act are reserved.

We have previously noted⁴ that there may be different views in the profession as to how the Scottish Parliament should exercise the powers devolved by section 52 of the Scotland Act (previously Clause 45 of the Scotland Bill). There was consensus that it would be an undesirable outcome for some aspects of the

¹ [Local Government and Regeneration Committee Call for Evidence on inquiry into Fixed-Odd Betting Terminals - August 2015](#)

² [Law Society of Scotland, Licensing Law Sub-Committee Written Evidence: Fixed-Odd Betting Terminals - August 2015](#)

³ [Official Report, Oral Evidence Session before the Scottish Parliament's Local Government and Regeneration Committee of 11 November 2015, from page 23](#)

⁴ [Law Society of Scotland, Licensing Law Sub-Committee Written Evidence: Fixed-Odd Betting Terminals - August 2015 at page 2](#)

Gambling Act 2005 (which is a UK Statute) and aspects of any future Scottish Parliament legislation to apply to the same betting premises. For example, it is more desirable for the law relating to the variation of the number of gaming machines authorised by a betting premises licence to be made in one legislature rather than two.

The Society is supportive of the general policy objectives of social responsibility measures, and the need to balance the interests of the industry and those of the public. The best way to serve all these interests is to have clarity and consistency across all jurisdictions and all sections of the industry. Any proposals to change current legislation ought to be evidence based and broadly consulted upon.

In respect of regulation of the gambling sector, we have noted previously that the Society would prefer an approach that will give clarity to the trade and licensing boards. In this regard, the Society would like to highlight our previous responses to questions 3 and 4 of our written evidence⁵ to the Scottish Parliament's Local Government and Regeneration Committee inquiry⁶ into the level of control in respect of "Fixed Odds Betting Terminals".

The Society has previously raised concerns with the Gambling Commission about whether a Licensing Standards Officer appointed in terms of the Section 14 of the Licensing (Scotland) Act 2005 has any power to carry out any enforcement activities under Part 15 of the Gambling Act 2005, both in respect of alcohol licensed premises and gambling licensed premises. Unlike England and Wales, the licensing authority in Scotland is the Licensing Board which has no officers or employees. Licensing Standards Officers are officers of the local authority, not the Licensing Board.

⁵ [Law Society of Scotland, Licensing Law Sub-Committee Written Evidence: Fixed-Odd Betting Terminals - August 2015](#)

⁶ [Local Government and Regeneration Committee Call for Evidence on inquiry into Fixed-Odd Betting Terminals - August 2015](#)



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For further information, please contact:

