



department for
**culture, media
and sport**

A consultation on changes to the law relating to the employment of children and young persons at a track with a betting premises licence

Amending section 55 of the Gambling Act to enable a child or young person to be employed on a track with a betting premises licence, provided that the employment does not involve providing facilities for gambling

23 January 2012

Our aim is to improve the quality of life for all through cultural and sporting activities, support the pursuit of excellence, and champion the tourism, creative and leisure industries.

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Chapter 1: Summary of Proposals

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| <p>What is being consulted on?</p> | <p>The proposal relates to:</p> <ul style="list-style-type: none"> • Creating an exemption under section 55 of the Gambling Act 2005, allowing the employment of children and young persons in non-gambling roles on tracks (such as racecourses) which hold a betting premises licence. This was the original policy intention. • Ensuring that section 51 of the Act, which prohibits people under 18 from working in gambling jobs, is not affected by these proposals and would continue to apply. | <p>Relevant sections:</p> <p>Chapters 2 to 4</p> |
| <p>How will these proposals be taken forward, and when will they be implemented?</p> | <p>We intend that the proposed changes to legislation are made through a Legislative Reform Order under the Legislative and Regulatory Reform Act 2006. Subject to the outcome of consultation and Parliamentary consideration, we currently propose that the changes are implemented from 1 October 2012.</p> | <p>2.5 – 2.20 Chapters 4 and 5</p> |
| <p>Consultation</p> | <p>This consultation is being made in accordance with the requirements of the Legislative Regulatory Reform Act 2006 and the terms of the Government's <u>Code of Practice on Consultation</u>.</p> <p>All responses should be received by 16 April 2012.</p> | <p>2.11 – 2.20 4.16 – 4.18 Chapter 5 Appendices B to D</p> |

Chapter 2: Introduction

2.1 This consultation paper sets out in detail the Government's proposal for reforming the Gambling Act 2005 insofar as it governs the employment of children and young persons on 'tracks' when betting is taking place. For the purposes of the legislation, the term "tracks" includes racecourses, greyhound racing tracks, football stadiums, tennis courts – in short any premises which a race or other sporting event takes place or is intended to take place.¹

Why change is needed

2.2 It is presently an offence under section 55 of the 2005 Act for a person under the age of 18 years to be employed, in any capacity, at a track which holds a betting premises licence at a time when betting is being offered (effectively, throughout the period when horse races, football matches etc are taking place). This is an unintended consequence of the 2005 Act. The preceding legislation, the Betting, Gaming and Lotteries Act 1963 (repealed by the 2005 Act), did not prevent people under the age of 18 years from working in a non-gambling capacity (for example as jockeys, stable lads, kitchen staff etc) at a track which held the relevant permission to conduct gambling. The Government wishes to restore the position, so young people aren't unfairly and unintentionally excluded from employment in these places.

Who will be affected by the proposals

2.3 The proposals set out in the consultation paper will reduce financial burdens on businesses which operate on a track, where the track itself holds a betting premises licence, and will remove the barrier to employment opportunities for children and young people. The proposals will help a wide range of occupations, including catering and office staff, stable hands, dog handlers, and professional sports people under the age of 18.

2.4 However, the provision in section 51 of the 2005 Act, which imposes a criminal offence for any person under 18 to be employed in the provision of gambling facilities, would remain in place. The proposals would not, for instance, make it legal for persons under the age of 18 years to provide betting, for example, as assistants to a bookmaker at a racecourse.

How these proposals will be taken forward

2.5 We propose to introduce the reform by means of a Legislative Reform Order (LRO) under section 1 of the Legislative and Regulatory Reform Act 2006 (LRRRA). This consultation is being conducted in accordance with the provisions of section 13 of the LRRRA. Views are invited on all aspects of the consultation paper, and a number of specific questions are set out in consultation document and the Response Form at Appendix B.

LEGISLATIVE REFORM ORDER-MAKING POWERS

What can be delivered by Legislative Reform Order?

Section 1

2.6 Under section 1 of the LRRRA a Minister can make an LRO for the purpose of 'removing or reducing any burden, or overall burdens, resulting directly or indirectly for any person from any legislation'. Section 1(3) of the LRRRA defines a 'burden' as:

- a financial cost;
- an administrative inconvenience;
- an obstacle to efficiency, productivity or profitability; or
- a sanction, criminal or otherwise, which affects the carrying on of any lawful activity

¹ See section 353(1) of the 2005 Act.

Section 2

2.7 Under section 2 of the LRRRA a Minister can make an LRO for the purpose of securing that regulatory activities are exercised in a way that is transparent, accountable, proportionate, consistent, and targeted only at cases in which action is needed. 'Regulatory functions' is defined in section 32 as:

- a function under any enactment of imposing requirements, restrictions or conditions, or setting standards or giving guidance, in relation to any activity; or
- a function which relates to the securing of compliance with, or the enforcement of, requirements, restrictions, conditions, standards or guidance which under or by virtue of any enactment relate to any activity.

Preconditions

2.8 Each proposal for a LRO must satisfy the preconditions set out in section 3 of the LRRRA. The questions in the rest of this document are designed to elicit the information that the Minister will need in order to satisfy the Parliamentary Scrutiny Committees that, among other things, the proposal satisfies these preconditions.

2.9 For this reason, we would particularly welcome your views on whether and how each aspect of the proposed changes in this consultation document meets the following preconditions:

- **Non-Legislative Solutions** – An LRO may not be made if there are non-legislative solutions which will satisfactorily remedy the difficulty which the LRO is intended to address. An example of a non-legislative solution might be issuing guidance about a particular legislative regime.
- **Proportionality** – The effect of a provision made by an LRO must be proportionate to its policy objective. A policy objective might be achieved in a number of different ways, one of which may be more onerous than others and may be considered to be a disproportionate means of securing the desired outcome. Before making an LRO the Minister must consider that this is not the case and that there is an appropriate relationship between the policy aim and the means chosen to achieve it.
- **Fair Balance** – Before making a LRO, the Minister must be of the opinion that a fair balance is being struck between the public interest and the interests of any person adversely affected by the LRO. It is possible to make an LRO which will have an adverse effect on the interests of one or more persons only if the Minister is satisfied that there will be beneficial effects which are in the public interest.
- **Necessary protection** – A Minister may not make an LRO if he considers that the proposals would remove any necessary protection. The notion of necessary protection can extend to economic protection, health and safety protection, and the protection of civil liberties, the environment and national heritage.
- **Rights and freedoms** – An LRO cannot be made unless the Minister is satisfied that it will not prevent any person from continuing to exercise any right or freedom which they might reasonably expect to continue to exercise. This condition recognises that there are certain rights that it would not be fair to take away from people using an LRO.
- **Constitutional Significance** – A Minister may not make an LRO if he considers that the provision made by the LRO is of constitutional significance.

2.10 It should be noted that even where the preconditions of section 3 of the LRRRA are met, an LRO cannot:

- Deliver 'highly controversial proposals';
- Remove burdens which fall solely on Ministers or Government departments, except where the burden affects the Minister or Government department in the exercise of regulatory functions;
- Confer or transfer any function of legislating on anyone other than a Minister; persons or bodies that have statutory functions conferred on or transferred to them by an enactment; a body or office which has been created by the LRO itself;
- Impose, abolish or vary taxation;

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- Create a new criminal offence or increase the penalty for an existing offence so that it is punishable above certain limits;
- Provide authorisation for forcible entry, search or seizure, or compel the giving of evidence;
- Amend or repeal any provision of Part 1 of the LRRRA;
- Amend or repeal any provision of the Human Rights Act 1998;
- Remove burdens arising solely from common law.

CONSULTATION

- 2.11 The LRRRA requires Departments to consult widely on all LRO proposals. The list of consultees, including the devolved administrations, to which this document has been sent is at Appendix A. The consultation document is also available on the Internet at www.culture.gov.uk
- 2.12 Comments are invited from all interested parties, and not just from those to whom the document has been sent. An example response form is at Appendix B.
- 2.13 A note explaining the Parliamentary process for LROs to be made under the LRRRA can be found at Appendix C. This will help consultees understand when and to whom they are able to put their views should they wish to do so.
- 2.14 This consultation document follows the format recommended by the BRE for such proposals. The criteria applicable to all UK public consultations under the BRE Code of Practice on Consultation are set out in Appendix D.

DISCLOSURE

- 2.15 Normal practice will be for details of representations received in response to this consultation document to be disclosed, and for respondents to be identified. While the LRRRA provides for non-disclosure of representations, the Minister will include the names of all respondents in the list submitted to Parliament alongside the draft LRO. The Minister is also obliged to disclose any representations that are requested by, or made to, the relevant Parliamentary Scrutiny Committees. This is a safeguard against attempts to bring improper influence to bear on the Minister. We envisage that, in the normal course of events, this provision will be used rarely and only in exceptional circumstances.
- 2.16 You should note that:
- If you request that your representation is not disclosed, the Minister will not be able to disclose the contents of your representation without your express consent and, if the representation concerns a third party, their consent too. Alternatively, the Minister may disclose the content of your representation but only in such a way as to anonymise it.
 - In all cases where your representation concerns information on a third party, the Minister is not obliged to pass it on to Parliament if he considers that disclosure could adversely affect the interests of that third party and he is unable to obtain the consent of the third party.
- 2.17 Please identify any information which you or any other person involved do not wish to be disclosed. You should note that many fax and email messages carry, as a matter of course, a statement that the contents are for the eyes only of the intended recipient. In the context of this consultation such appended statements will not be construed as being requests for non-inclusion in the post consultation review unless accompanied by an additional specific request for confidentiality, such as an indication in the tick-box provided for that purpose in the response form at Appendix B.

CONFIDENTIALITY AND FREEDOM OF INFORMATION

- 2.18 It is possible that requests for information contained in consultation responses may be made in accordance with access to information regimes (these are primarily the Freedom of Information Act 2000, the Data Protection Act 1998 and the Environmental Information Regulations 2004). If you do not want your response to be disclosed in response to such requests for information, you

should identify the information you wish to be withheld and explain why confidentiality is necessary. Your request will only be acceded to if it is appropriate in all the circumstances. *An automatic confidentiality disclaimer generated by your IT system will not of itself be regarded as binding on the Department.*

RESPONDING TO THE CONSULTATION DOCUMENT

2.19 Any comments on the proposals in this consultation document should be sent by **16 April 2012** at the latest to gambling.consultation@culture.gsi.gov.uk or in hard copy to:

Simon Richardson
Gambling Sector Team
Department for Culture, Media and Sport
2-4 Cockspur Street
London SW1Y 5DH

Tel: 020 7211 6000

2.20 Further copies of this document may be obtained from the same address.

Chapter 3: Background

The Betting Gaming and Lotteries Act 1963

- 3.1 Prior to the 2005 Act coming into force, the provision of facilities for betting were regulated by the Betting, Gaming and Lotteries Act 1963 (c.2) (“the 1963 Act”), which made a distinction between on-course and off-course betting.
- 3.2 To enable bookmaking to be carried on at a track (known as on-course bookmaking) the occupier of the track was required to obtain a licence authorising the provision of betting facilities. There were limited exceptions to this requirement. A licence was not required in respect of horserace courses which held a certificate of approval issued by the Horserace Betting Levy Board, or where a track was used for less than 8 days in any 12 month period.²
- 3.3 To enable bookmaking to be carried on at other premises (known as off-course bookmaking) the operator was required to obtain a betting office licence. Premises in respect of which such a licence was in force were authorised to be used as a betting office.³
- 3.4 The provisions relating to the employment of young persons (persons under the age of 18 years) in a betting environment were governed by section 21 of the 1963 Act. It was an offence under section 21 of the 1963 Act to employ a young person to effect betting transactions or to work in a betting office. However, there were no provisions in the 1963 Act preventing a young person from being employed on a horse-race course, or a track with a betting licence, provided that section 21 of the Act was complied with. In other words, young persons could be employed to undertake non-gambling work at a track with a betting premises licence at a time when betting was taking place.

The Gambling Act 2005

- 3.5 The Gambling Act 2005 repealed the 1963 Act on 1 September 2007. The 2005 Act gave effect to the then Government’s proposals for reforming the law on gambling and created an independent regulator for betting, gaming and lotteries in Great Britain called the Gambling Commission (‘the Commission’). It established a new regulatory system, governing all gambling activity in Great Britain (other than the National Lottery and spread betting), with the effect that gambling is unlawful unless authorised under the 2005 Act.

Premises Licence

- 3.6 The licensing provisions under the 1963 Act were replaced with a single betting premises licence under the 2005 Act.⁴ It is now a requirement for an operator to obtain a betting premises licence in order to provide facilities for betting. Premises which offer betting facilities are mainly betting shops and tracks (such as a horse-race course). However, there is no legal distinction between a premises licence which is issued to a betting shop and a premises licence which is issued to a track. For the purposes of the Act they are both betting premises licences.
- 3.7 Premises licences are issued by the local authority in the area a premises is situated and authorise the provision of facilities for betting whether by making or accepting bets, by acting as a betting intermediary or by providing other facilities for the making or accepting of bets (a “betting premises licence”).⁵ It should also be noted that section 152 of the 2005 Act provides that a track may be subject to more than one premises licence, but no more than one premises licence can

² See section 6 of the 1963 Act.

³ See section 9 of the 1963 Act.

⁴ See Part 8 of the 2005 Act.

⁵ See section 150 of the 2005 Act.

operate in relation to any area of the track. So where an application is made for a licence to offer gambling in an area of a track that is already subject to a premises licence, that original licence must first be varied.

3.8 A “track” is defined in the 2005 Act as “a horse-race course, dog track or other premises on any part of which a race or other sporting event takes place or is intended to take place”.⁶ So, for example, this would include a football ground, cricket ground and any other sporting venue. If any betting facilities are provided during the sporting event then, with a couple of exceptions⁷, a betting premises licence is required to authorise the betting facilities. In this consultation such licences are referred to as “track premises licences” although this is not a term that is used in the Act. It is the track premises licences which the proposals in this consultation will affect.

Protection of Children and Young Persons

3.9 Part 4 of the 2005 Act contains a number of provisions relating to the protection of children and young persons. In particular, restrictions are imposed on ways in which children and young persons can be employed on premises where gambling facilities are being provided, even if they are not engaged to perform any gambling activities themselves. The purpose of these restrictions is to ensure that children and young persons are not afforded undesirable exposure to gambling.

3.10 The relevant provisions in the 2005 Act under which it is an offence to employ children and young persons in a betting environment are as follows:

(i) *Employment to provide facilities for gambling (section 51)*

3.11 A person commits an offence if he employs a child or young person to provide facilities for gambling. There are some exceptions to this in respect of “softer” forms of gaming such as lotteries and football pools⁸, but there is no exception with regard to betting. Therefore, it is an offence under the 2005 Act to employ a person under the age of 18 years in any capacity which involves that person providing facilities for betting.

(ii) *Employment in casinos etc (section 55)*

3.12 A person commits an offence if he employs a child or young person to perform any function on premises in respect of which (a) a casino premises licence, (b) a betting premises licence, or (c) an adult gaming centre premises licence, has effect. A young person also commits an offence if he is employed in this capacity. However, the offences do not apply if employment is at a time when gambling is not taking place.

3.13 A person who employs a child or young person under the age of 18 years in contravention of these prohibitions shall be guilty of an offence and be liable on summary conviction to (a) imprisonment for a term not exceeding 51 weeks (in Scotland the term shall be no longer than 6 months) (b) a fine not exceeding level 5 on the standard scale (currently £5,000), or (c) both. The young person shall also be guilty of an offence if he is employed in contravention of these prohibitions and shall be liable for a fine not exceeding level 3 (currently £1,000) on the standard scale.

3.14 The effect of these offences is that a child or young person cannot be employed in any capacity at a track which holds a betting premises licence, whilst betting is being conducted in

⁶ See section 353(1) of the 2005 Act.

⁷ A betting premises licence is not required if the premises providing the facilities for betting holds an occasional use notice (see section 39) or a temporary use notice (see Part 9).

⁸ Under the Act the offence does not apply to the provision of facilities in connection with: private or non commercial gaming; private or non commercial betting; a lottery, football pools; or prize gaming at a travelling fair in accordance with section 292.

accordance with that licence.

Parliamentary Intention

3.15 It was the then Government's intention under the 2005 Act to restrict the ways in which children and young persons could be employed to work on premises where facilities for gambling were being provided, even where they were not engaged to perform any gambling activities themselves. This was to ensure that children and young persons were not afforded undesirable exposure to gambling. However, it was recognised that different gambling environments provided different levels of exposure and it was accepted that young persons could, in particular circumstances, be employed in premises which offered gambling facilities, provided that they were not involved in providing the facilities for gambling.

3.16 In a policy document presented to Parliament by the Secretary of State for DCMS in November 2003, named "Draft Gambling Bill – The Policy", the Government stated the following:

"6.25 As far as the employment of younger people in gambling businesses is concerned, there is obviously a balance to be struck. We do not, of course, wish children to be exposed to harmful gambling through employment, but nor do we wish to prevent young people from working in quite safe surroundings that happen to be associated in some way with a gambling operation. So, for example, there seems to be no reason to prevent a 17 year old from having a weekend job at a racecourse just because there is betting taking place in the ring downstairs. The draft Bill proposes, therefore, a general minimum age of 18 for employment in relation to the provision of facilities for gambling, except in relation to lotteries and football pool competitions where anyone aged 16 or over may be involved in the sale of tickets or the collection of coupons.

6.26 The draft Bill also provides for a number of exceptions with respect to employment on gambling premises, where there is no substantial risk to the welfare of the young person and where they are not involved in the conduct of gambling. Those aged 16 or over may be employed in a bingo club (other than those operating under gaming permit) and at a family entertainment centre. At betting tracks such as horserace courses and greyhound tracks there is to be no minimum employment age to allow for, for example, young persons to be employed as jockeys or to serve refreshments. On any premises, no person under the age of 18 is to have any access to gaming machines in any category above category D."

3.17 Under section 53 of the 2005 Act, a person commits an offence if he employs a child to perform any function on premises where, and at a time when (a) facilities are being provided for the playing of bingo, or (b) facilities for gambling are provided in accordance with a club gaming permit or a club machine permit. However, this offence does not apply to the employment of young persons, and therefore a young person can be employed in such an environment. The law in respect of bingo premises thus accords with the policy statement above. This provision is still subject to the offence in section 51 of the 2005 Act and therefore such employment must not involve providing facilities for gambling.

3.18 The 2005 Act also allows a young person to be employed to work in a licensed family entertainment centre (such as a seaside amusement arcade) provided that (i) they have no access to areas where category C machines are available for use⁹ and (ii) a Category C gaming machine is not being used or is available for use at the time when they are on the premises.

3.19 In response to the publication of the draft gambling bill, the House of Lords and House of Commons Joint Committee published a report "Draft Gambling Bill" which set out their comments on the draft bill. With regard to the issue of young persons being employed in gambling premises

⁹ See section 47(7) regarding prohibition on access to licensed family entertainment centres.

they made the following comment:

“266 We welcome the Government’s clarification that young persons will be able to be employed in areas of casino complexes in which gaming does not take place. We consider that Clauses 41 to 45 of the draft Bill should not prevent young persons being employed in gambling premises, provided that the employment does not relate to the gambling provided in those premises.”

- 3.20 The policy to allow persons under the age of 18 to carry out non-gambling functions was also reflected in the Explanatory Notes to the Act, which stated “*There is also an effective prohibition on children and young persons being employed in the betting areas of certain tracks and the adult-only areas of family entertainment centres.*” (paragraph 189). This infers that it was the intended policy to allow children and young persons to be employed in the non-betting areas of a track.
- 3.21 It was also the intention of the 2005 Act for children and young persons to have restricted access to premises which held particular gambling licences. Section 47 of the Act prohibits children and young persons from entering a casino, a betting shop or an adult gaming centre at any time when facilities for gambling are being provided in reliance on the premises licence. However, an exception is made regarding the access to tracks with a betting premises licence. The Act does not prohibit children and young persons from entering a track while betting is being carried on in reliance of the licence. Furthermore, the restriction on children and young persons entering the betting areas of tracks, does not apply in respect of dog tracks and horse-race courses on race days.¹⁰ These exemptions were made for tracks in line with the Government’s view that racecourses and other sporting venues represent a low risk gambling environment for children and young people.
- 3.22 However, as explained above, the present application of section 55 of the 2005 Act to track premises licences is inconsistent with the intended policy regarding the presence of children and young persons on tracks. The effect of the Act is therefore at variance with the policy intention, which was to maintain the position under the 1963 Act, with a distinction being drawn between gambling and non-gambling work carried out on at a track, and the latter being allowed.
- 3.23 The effect of the 2005 Act is that children and young persons are permitted to be present on tracks while betting is being conducted; and are able to enter the betting areas of horse race courses and dog tracks on race days; but cannot be employed to work on those tracks in a non-gambling capacity while betting is taking place. This was not the policy intention. In practical terms, this is a cause of concern to track owners and operators, as well as the businesses that operate on tracks, which would wish to have the choice of employing under-18s in various roles to successfully carry on their business.

Representations and evidence

- 3.24 Following representations from three of the industries affected by the restriction (horseracing, greyhound racing and football), it has been argued persuasively that under-18s are a valuable resource as employees of the track or of third party businesses on the track. Representations have made clear that prior to the 2005 Act coming into force, under-18s were employed on tracks in substantial numbers and were a key part of the tracks sector in terms of filling roles and the day-to-day operations of the tracks. A young person might be employed in an apprentice role, as a holiday job, or as a starting job for a career in these industries.
- 3.25 Particular roles for children and young people might include stable staff, apprentice jockeys, dog handlers, match day stewards, junior professional footballers, ball boys and girls at tennis

¹⁰ See section 182 of the 2005 Act.

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tournaments, as well as staff in associated fields such as catering, hospitality, litter collection, car park assistants, ground staff or office staff.

- 3.26 The Racecourse Association has previously estimated that the number of staff under 18 employed on the 60 horse racecourses in Great Britain is in the region of 1025, with a seasonal variation of up to 100% when there are school holidays or key fixtures. The Greyhound Racecourse Promoters Association collected its own data and estimated that around 9% of the workforce on the 26 licensed greyhound tracks are under the age of 18.
- 3.27 The representations from the three industries questioned what evidence existed that there was a harm that needed addressing through the relevant provisions in the Act. They also argued that their respective industries seek to encourage participation from a young age in order to encourage people to join the industry which will help to sustain it. However, all representations have accepted that the law should remain as it is with regard to under-18s being prevented from providing facilities for gambling, and it is not intended that this be changed.
- 3.28 Whilst there is no evidence that licensing authorities have so far sought to enforce the provision prohibiting the employment of under-18s on licensed tracks a number have previously sought guidance and DCMS believes that it is consistent with the principles of good government to rectify the anomaly which has been highlighted.
- 3.29 Taking account of all these considerations, in particular the need to prevent damage to the industries affected, the policy intention is to rectify this anomaly by amending section 55 of the Act to provide tracks with an exemption allowing the employment of persons under the age of 18 in non-gambling roles at tracks when betting is taking place. However, we will retain the necessary protection in section 51 of the Act, which imposes a criminal offence for any person under 18 to be employed in the provision of gambling facilities.

Chapter 4: The Proposals

- 4.1 In order to rectify the identified anomaly and thus remove a potential burden on the horseracing, greyhound racing and other affected sports, the Department proposes to amend the relevant sections of the Gambling Act by means of an LRO, which is a statutory instrument made under the powers conferred by the LRRRA to amend primary legislation. We propose to do this by inserting a new paragraph 2(c) to section 55 of the 2005 Act. Section 55(2) prescribes the circumstances in which the offence in section 55(1) will not apply. We propose to add an exemption to that paragraph regarding the employment of children and young persons on any part of a track in respect of which a betting premises licence has effect.
- 4.2 The proposed amendment to section 55(2) of the Act will have the effect of removing the offences under section 55(1) and 55(4), with regard to the employment of children and young persons on any part of a track, in respect of which a premises licence has effect, at a time when betting is being provided on the licence. However, such employment will still be subject to the offence in section 51 of the Act, which prohibits persons under the age of 18 years from being employed to provide facilities for gambling.
- 4.3 The proposals will affect persons under the age of 18 years who wish to work at racecourses, dog tracks or other sporting venues, whether as professional sports persons, students looking for holiday work, or apprentices wishing to train in a particular occupation, such as dog handlers or stable staff. The proposals will remove the prohibition presently contained in the Act and allow those persons to pursue these various employment opportunities.
- 4.4 The proposals will also affect tracks which hold a betting premises licence and businesses which operate on those tracks. Such tracks and other businesses will be able to employ persons under the age of 18 years to carry out non-gambling functions at a time when betting facilities are being provided in reliance on the premises licence (such as race days).
- 4.5 The proposals will remove the offences in section 55 of the 2005 Act in relation to tracks and consequently allow businesses to employ persons under the age of 18 years on a track whilst betting is taking place. We therefore consider that it will have the effect of removing burdens in accordance with the following sections of the LRRRA:
- an ‘obstacle to efficiency, productivity or profitability’ (subsection 3c) – since it is not currently lawful to employ under-18s in various non-gambling roles on tracks and for young people to seek employment on tracks. Removing this obstacle would help allow tracks and businesses that operate on tracks to successfully carry on their business.
 - a ‘sanction, criminal or otherwise, which affects the carrying on of any lawful activity’ (subsection 3d). Although there is no evidence that licensing authorities have so far sought to enforce this provision, it is an offence for tracks to employ under-18s in such a way which, on conviction, would result in imprisonment for a period not exceeding 51 weeks (no more than 6 months in Scotland) and/or a fine not exceeding £5000. There is also a financial penalty for the young person employed.

1. Do you agree that the proposal will remove or reduce burdens and do you agree with our estimate of the reduction in regulatory burden as measured by the net cost to business in the impact assessment?

- 4.6 Following discussions with the Racecourse Association (horse racing), the Racecourse Promoters Association (greyhound racing) and the Gambling Commission, it is estimated that around 120-150 sports venues will have obtained or will seek to obtain a ‘track premises licence’ and therefore be affected by this proposal:

- 60 horse racecourses
- 26 licensed greyhound tracks
- 30-40 football stadiums (including the national stadiums in England, Wales and Scotland)
- 10-30 other sports venues (including, potentially, those for tennis, cricket, rugby union and rugby league)

4.7 A lower National Minimum Wage rate applies to persons under the age of 18 compared with that which applies to those over 18. This means that, depending on the relative levels of employment that result, tracks and those businesses that operate on tracks would potentially be able to benefit from a net wage cost saving. There will, of course, also be employment income benefits for those under 18 from the new job opportunities created.

4.8 The main cost of this policy is any income lost by those over 18 that are displaced from their jobs by the employment of under 18s in the same. However, it should also be noted that the effective reduction in the price of labour may help to stimulate increased employment levels more generally. Whilst, there will be a cost to business from employing additional workers this would only be done if those businesses expected to earn increased revenues from the additional employment created.

4.9 The key to understanding the effect of the proposal to have an accurate estimate of the demand for under 18s labour in an unrestricted market. The best way to generate this information would be to compile a bottom up assessment at the individual business level. Alternatively, it is likely that similar credible information could be obtained from discussion with trade organisations such as the Racecourse Association and the Racecourse Promoters Association.

4.10 As it has not yet been possible to collate such information at this stage, it has been necessary instead to take a top down approach from existing national statistics to get a reasonable approximation of the impact of the proposal. There are no statistics collected on the employment of under 18s at trackside venues so estimates of the level of employment have been based on national averages for under 18s employment rates (Labour Force Survey) and working hours (Annual Survey of Hours and Earnings). These have been applied to estimates of employment in spectator sports (Sport Satellite Account), which has been used as a proxy for trackside businesses, in combination with an elasticity of demand for teenage labour (academic study). The effect on employment is combined with differences in the National Minimum Wage for different age groups to produce a monetised estimate of the impact.

4.11 The accompanying Impact Assessment provides a detailed cost/benefit analysis to quantify the net benefits of the proposal. It is therefore important that you read that in conjunction with this consultation document to enable you to answer the questions below.

4.12 To enable us to take the proposal forward following consultation it will be necessary to test and demonstrate that the estimates and assumptions made in this consultation document are robust. It would therefore be particularly useful to receive any information, whether quantified or more general, that might assist the better understanding of the potential costs and benefits of the proposed change.

2. Do you have views regarding the expected impact of the proposals as identified in this consultation document and addressed in the Impact Assessment attached as Appendix F?

3. Do you have any evidence that supports the need for these reforms? If so, please provide details. For example, please provide, where possible, estimates for:

- **Numbers of sports venues that currently have track premises licences, and those that would seek to obtain track premises licences if this proposal is implemented.**
- **Numbers of individuals currently employed at such venues aged:**

- Under 16
- 16 and 17
- 18 to 20
- 21 and over
- **Numbers of individuals likely to be employed at such venues (if this proposal is implemented) aged:**
 - Under 16
 - 16 and 17
 - 18 to 20
 - 21 and over
- **Examples of areas of employment that those under 18 might be involved in at tracks.**
- **Any other general or quantified information or that might assist the better understanding of the potential costs and benefits of the proposed change.**

Extent

4.13 The Order will apply to England, Wales and Scotland.

Related Controversial Issues

4.14 It is not believed that these proposals are controversial as they are intended to reinstate the position which existed under the 1963 Act. However, the proposals may be perceived by some as being controversial because they involve the employment of children in an environment where gambling takes place (see the Possible Parliamentary Procedure chapter below).

Binding the Crown

4.15 These proposals will bind the Crown. ¹¹

Possible Parliamentary Procedure

4.16 The Minister can recommend one of three alternative procedures for Parliamentary scrutiny, depending on the size and importance of the LRO. The negative resolution procedure is the least onerous and therefore may be suitable for LROs delivering small regulatory reform. The super-affirmative procedure is the most onerous involving the most in-depth Parliamentary scrutiny. Although the Minister can make the recommendation, Parliamentary Scrutiny Committees have the final say about which procedure will apply.

Negative Resolution Procedure – This allows Parliament 40 days to scrutinise a draft LRO after which the Minister can make the LRO if neither House of Parliament has resolved during that period that the LRO should not be made.

Affirmative Resolution Procedure – This allows Parliament 40 days to scrutinise a draft LRO after which the Minister can make the LRO if it is approved by a resolution of each House of Parliament.

Super-Affirmative Resolution Procedure – This is a two-stage procedure during which there is opportunity for the draft LRO to be revised by the Minister. This allows Parliament 60 days of initial scrutiny, when the Parliamentary Committees may report on the draft LRO, or either House may make a resolution with regard to it. If, after the expiry of the 60 day period, the Minister wishes to make the LRO with no changes, the Minister must lay a statement. After 15 days, the Minister may then make an LRO in the terms of the draft, but only if it is approved by a resolution of each House of Parliament. If the Minister wishes to make material changes to the draft LRO, the Minister must lay the revised draft LRO and a statement giving details of any representations made during the scrutiny period and of the

¹¹ See section 354 of the 2005 Act for the application of the crown.

A consultation on changes to the law relating to the employment of children and young persons at a track with a betting premises licence

revised proposal before Parliament. After 25 days, the Minister may only make the LRO if it is approved by a resolution of each House of Parliament.

- 4.17 Under each procedure, the Parliamentary Scrutiny Committees have the power to recommend that the Minister not make the LRO. If one of the Committees makes such a recommendation, a Minister may only proceed if the recommendation is overturned by a resolution of the relevant House.
- 4.18 The Department for Culture, Media and Sport believes that the Affirmative Resolution procedure should apply to this LRO. Whilst the proposals are merely intended to remedy an unintended consequence of the 2005 Act and revert to the position under the 1963 Act, due to the fact that its effect will be to allow young people and children to be employed at tracks whilst betting is taking place (albeit in a non-betting capacity), there may be some sensitivity in the proposals. Parliament may therefore wish to debate the proposals.

4. Do you agree that the proposed Parliamentary resolution procedure should apply to the scrutiny of this proposal?

Chapter 5: Analysis

5.1 This chapter analyses the proposals against the requirements of the Legislative and Regulatory Reform Act 2006.

Non-Legislative Solutions

5.2 The Department has considered whether we could use the powers in section 55(3) of the 2005 Act to distinguish the gambling and non-gambling parts of a track for the purpose of section 55(2)(a). We considered whether it would be possible to exempt, from the offence in section 55(1), employment in an area of the track where no gambling was taking place. However, it is our view that the powers in section 55(3) are not wide enough to be used in such a way. We consider that the purpose of section 55(3) is to distinguish the gambling and non-gambling parts of a casino; a similar provision is contained in section 47(3) of the Act. Moreover, section 55(2)(a) appears to be drafted as a very narrow exception and therefore we did not consider it would allow the Secretary of State to use his powers in section 55(3) to change it.

5.3 We are therefore not satisfied that the policy objective could be practically achieved by other means. The prohibition to employ a person under the age of 18 years on a track with a betting premises licence is contained in the primary legislation and therefore we consider that an amendment to the Act is necessary to achieve the policy. We therefore consider that the proposals can only be achieved through the vehicle of a LRO.

5.4 In the interim, we will make clear to licensing authorities that the prohibition in section 55 of the Act arises through an unintended consequence thereof; that DCMS is seeking to rectify the position through an LRO; and that neither the Department nor the Gambling Commission is looking to licensing authorities to enforce the prohibition in respect of employment of under-18s on tracks in a non-gambling capacity.

| |
|---|
| <p>5. Are there any non-legislative means that would satisfactorily remedy the difficulty which the proposal intends to address?</p> |
|---|

Proportionality

5.5 We believe that the proposals set out above are proportionate to the policy objective of allowing children and young persons to be employed in non-gambling functions at a track while betting is being carried on. The proposals are designed to re-instate the position which existed under the Betting, Gaming and Lotteries Act 1963, which was repealed by the Gambling Act 2005. It was an offence under section 21 of the 1963 Act for a person to employ a young person to effect betting transactions or to work in a betting office. However, there were no provisions in the 1963 Act which prevented a young person from being employed on a horse-race course, or a track with a betting licence, provided that section 21 of the Act was being complied with. In other words, young persons could be employed to undertake non-gambling work at a track with a betting premises licence at a time when betting was taking place. For the purposes of the 1963 Act a "young person" was defined as a person who is under the age of 18 years.

5.6 It is currently an offence under section 55(1) of the Gambling Act 2005 for a person to employ any person under the age of 18 years to perform any function on a track (such as horserace course, dog tracks and other sporting venue) which is licensed to offer betting facilities. A young person (aged 16 and 17) will also commit an offence if he is employed in contravention of section 55(1) (see section 55(4)). This is a clear obstacle to efficiency, productivity and profitability, and the proposal to remove this obstacle is in our view proportionate.

5.7 Although DCMS and the Commission are not currently expecting local authorities to take action against the employment of persons in contravention of section 55 of the 2005 Act, it is not desirable for the non-enforcement of a provision in keystone legislation to be indefinite.

6. Is the proposal proportionate to the policy objective?

Fair Balance

5.8 The Department does not consider that any persons would be subjected to a significant adverse impact by this provision. The impact of the proposals is restricted to the employment of persons under the age of 18 years to work at a track with a betting premises licence at a time when activity is being carried on in reliance on the premises licence. As explained earlier and in the Impact Assessment there may be some limited job displacement with some individuals aged under 18 being employed rather than those over 18. However, the effective reduction in labour cost may also stimulate increased employment levels generally.

5.9 We do not therefore consider that the proposals will have a significant adverse impact on any particular group. It will enable businesses which operate at tracks to employ persons under the age of 18 years and will also provide employment opportunities for young people. Therefore we do not consider that the question of fair balance, which weighs the public interest and the interest of any person adversely affected by the proposed measure, arises here.

7. Does the proposal taken as a whole strike a fair balance between the public interest and any person adversely affected by it?

Necessary protection

5.10 The Department does not consider that the proposals will remove any necessary protection. The effect will be to enable persons under the age of 18 years to be employed in non-gambling roles at a track whilst betting facilities are being provided. The proposals will not override the offence in section 51 of the 2005 Act which prohibits any person under the age of 18 years from being employed to provide facilities for gambling.

5.11 Employment provisions contained in other legislation will not be affected by these proposals. In particular, the employment of children and young persons on a track with a betting premises licence will still be subject to the stringent employment provisions set out in the Children and Young Persons Act 1933. These provisions apply to children of compulsory school age and set the minimum working age at 14 years; they prohibit children from working in certain occupations; and provide protection against the number of hours which a child may be employed to work in any one day, with a restriction on employment during school hours.¹²

5.12 The proposals will remedy an unintended consequence of the 2005 Act and will have the effect of restoring the position which existed under the 1963 Act. There were no provisions in the 1963 Act which prevented a young person from being employed on a horse-race course, or a track with a betting licence, provided that section 21 of that Act was being complied with. In other words, such persons could be employed to undertake non-gambling work.

5.13 The Gambling Act permits the presence of children and young persons on tracks while facilities for betting are being provided (see section s47(4) of the Act) and indeed the ability to enter betting areas on race days (see section 182). Therefore, the proposals will be consistent with Parliament's intention that children are allowed to be present on tracks while betting is being provided.

¹² See section 18 of the Children and Young Persons Act 1933.

5.14 One of the licensing objectives underpinning the Act is “protecting children and other vulnerable persons from being harmed or exploited by gambling” (section 1(c)). Therefore licensed betting operators will continue to be responsible for ensuring that children and young adults do not bet on tracks. The Gambling Commission has advised that it is not aware of evidence that suggests there has ever been a harm that needed addressing. The risk of harm that the Commission is tasked with preventing is fully mitigated by the operating licence (along with the provisions in their Licence Conditions and Codes of Practice) that is granted by the Commission to betting operators that run their businesses on tracks. It considers that this situation will continue to exist and operators will continue to promote the licensing objectives irrespective of section 55 being amended to allow persons under the age of 18 years to be employed on tracks. This would be analogous to the permitted presence under section 47(4) of the 2005 Act of children and young persons on tracks, and indeed the ability to enter betting areas on race days under section 182 of that Act.

8. Does the proposal remove any necessary protection?

9. As stated above, under child employment law the minimum age for employment is 14. There are restrictions on the employment of children of compulsory school age, e.g. they are not allowed to work in certain occupations. The proposal does not therefore prescribe a different minimum age for the employment of children in non-gambling activity at a track. However, do you think that there should be a different minimum age for such employment?

Rights and Freedoms

5.15 As the changes we propose are purely beneficial we do not believe that they would prevent anyone from exercising an existing right or freedom. On the contrary, we consider that the proposals would increase the rights and freedoms of businesses operating on tracks to employ young persons in appropriate roles, and will provide employment opportunities for young people. We would welcome views as to whether we are correct in thinking that our proposals do not remove any rights or freedoms that anyone could reasonably expect to continue to enjoy.

10. Does the proposal prevent any person from continuing to exercise any right or freedom which he might reasonably expect to continue to exercise? If so, please provide details.

Constitutional Significance

5.16 The proposals are not of constitutional significance. They are amendments to the 2005 Act to re-instate the position which existed under the 1963 Act. Their aim is to ensure that the original policy intention to allow persons under the age of 18 years to be employed in non-gambling work on a track is achieved.

11. Do you consider the provisions of the proposal to be constitutionally significant?

Appendix A: List of Consultees

This list indicates those organisations and sectors that may wish to respond to the consultation. However, anyone can respond to this consultation and we welcome all responses.

- Action for Children
- Association of British Bookmakers
- Association of Chief Police Officers
- Association of Chief Police Officers in Scotland
- Association of Directors of Children's Services
- Betting and other gambling operators and trade associations
- British Amusement Catering Trades Association
- British Association of Leisure, Piers, Parks and Attractions
- British Horseracing Authority
- British Hospitality and Restaurant Association
- British Retail Consortium
- Business in Sport and Leisure
- Businesses that operate on 'tracks'
- CARE
- Children's Society
- Church of England
- Church of Scotland
- Convention of Scottish Local Authorities
- Coral Racing
- Employment Bodies
- England and Wales Cricket Board
- Evangelical Alliance
- Faith groups
- Federation of Racecourse Bookmakers
- Federation of Small Businesses
- Football Association
- Football Association of Wales
- Football League
- Gambling Commission
- GamCare
- Gordon House Association
- GREaT Foundation
- Greyhound Board of Great Britain
- Horsemen's Group
- Horserace Betting Levy Board
- Institute of Licensing
- Lawn Tennis Association
- Licensing authorities and the police
- Local Government Association
- Methodist Church
- National Network for Children in Employment and Entertainment
- Northern Ireland Assembly
- Office of the Children's Commissioner
- Organisations representing children and young people
- Police Federation
- Police Superintendents' Association
- Premier League
- QAAD (Quakers Against Alcohol and Drugs)
- Professional Golfers' Association
- Racecourse Association
- Racecourse Promoters Association
- Responsible Gambling Strategy Board
- Responsible gambling organisations
- Royal and Ancient Golf Club
- Rugby Football League
- Rugby Football Union
- Scottish Football League
- Scottish Parliament
- Scottish Premier League
- Scottish Rugby Union
- Scottish Football Association
- Sport and Recreation Alliance
- Sports bodies
- The Salvation Army
- Trading Standards Institute
- UK Athletics
- Welsh Assembly
- Welsh Local Government Association
- Welsh Rugby Union

Appendix B: Response Form

RESPONSE FORM FOR THE CONSULTATION PAPER ON:

Amending section 55 of the Gambling Act to enable a child or young person to be employed on a track with a betting premises licence, provided that the employment does not involve providing facilities for gambling.

| Respondent Details | Please return by 16 April 2012 to: |
|--------------------|--|
| Name: | gambling.consultation@culture.gsi.gov.uk |
| Organisation: | Simon Richardson |
| Address: | Gambling Sector Team Department for Culture, Media and Sport |
| Town/City: | 2-4 Cockspur Street London |
| County/Postcode: | SW1Y 5DH |
| Telephone: | 020 7211 6000 |
| E-mail: | |

Tick this box if you are requesting non-disclosure of your response.

1) Do you agree that the proposal will remove or reduce burdens and do you agree with our estimate of the reduction in regulatory burden as measured by the net cost to business in the impact assessment?

Comments:

2) Do you have views regarding the expected impact of the proposal as identified in this consultation document and addressed in the Impact Assessment attached as Appendix F?

Comments:

3) Do you have any evidence that supports the need for these reforms? If so, please provide details. For example, please provide, where possible, estimates for:

- Numbers of sports venues that currently have track premises licences, and those that would seek to obtain track premises licences if this proposal is implemented.
- Numbers of individuals currently employed at such venues aged:
 - Under 16
 - 16 and 17
 - 18 to 20
 - 21 and over
- Numbers of individuals likely to be employed at such venues (if this proposal is implemented) aged:
 - Under 16
 - 16 and 17
 - 18 to 20
 - 21 and over
- Examples of areas of employment that those under 18 might be involved in at tracks.
- Any other general or quantified information or that might assist the better understanding of the potential costs and benefits of the proposed change.

Comments:

4) Do you agree that the proposed Parliamentary resolution procedure (affirmative – as outlined in paragraphs 4.16 to 4.18 should apply to the scrutiny of this proposal?

Comments:

5) Are there any non-legislative means that would satisfactorily remedy the difficulty which the proposal intends to address?

Comments:

6) Is the proposal proportionate to the policy objective?

Comments:

7) Does the proposal taken as a whole strike a fair balance between the public interest and any person adversely affected by it?

Comments:

8) Does the proposal remove any necessary protection?

Comments:

9) Under child employment law the minimum age for employment is 14. There are restrictions on the employment of children of compulsory school age, e.g. they are not allowed to work in certain occupations. The proposal does not therefore prescribe a different minimum age for the employment of children in non-gambling activity at a track. However, do you think that there should be a different minimum age for such employment?

Comments:

10) Does the proposal prevent any person from continuing to exercise any right or freedom which he might reasonably expect to continue to exercise? If so, please provide details.

Comments:

11) Do you consider the provisions of the proposal to be constitutionally significant?

Comments:

Appendix C: Legislative Reform Orders - Parliamentary consideration

Introduction

1. These reform proposals relate to the Gambling Act 2005 and will require changes to primary legislation in order to give effect to them. The Minister could achieve these changes by making a Legislative Reform Order (LRO) under the Legislative and Regulatory Reform Act 2006 (LRRRA). LROs are subject to preliminary consultation and to rigorous Parliamentary scrutiny by Committees in each House of Parliament. On that basis, the Minister invites comments on these reform proposals as measures that might be carried forward by a LRO.

Legislative Reform Proposals

2. This consultation document on amending the Gambling Act has been produced because the starting point for LRO proposals is thorough and effective consultation with interested parties. In undertaking this preliminary consultation, the Minister is expected to seek out actively the views of those concerned, including those who may be adversely affected, and then to demonstrate to the Scrutiny Committees that he or she has addressed those concerns.

3. Following the consultation exercise, when the Minister lays proposals before Parliament under the Legislative and Regulatory Reform Act 2006, he or she must lay before Parliament an Explanatory Document which must:

- i) Explain under which power or powers in the LRRRA the provisions contained in the order are being made;
- ii) Introduce and give reasons for the provisions in the Order;
- iii) Explain why the Minister considers that:
 - There is no non-legislative solutions which will satisfactorily remedy the difficulty which the provisions of the LRO are intended to address;
 - The effect of the provisions are proportionate to the policy objective;
 - The provisions made in the order strikes a fair balance between the public interest and the interests of any person adversely affected by it;
 - The provisions do not remove any necessary protection;
 - The provisions do not prevent anyone from continuing to exercise any right or freedom which they might reasonably expect to continue to exercise;
 - The provisions in the proposal are not constitutionally significant; and
 - Where the proposals will restate an enactment, it makes the law more accessible or more easily understood.
- iv) Include, so far as appropriate, an assessment of the extent to which the provision made by the order would remove or reduce any burden or burdens;
- v) Identify and give reasons for any functions of legislating conferred by the order and the procedural requirements attaching to the exercise of those functions; and
- vi) Give details of any consultation undertaken, any representations received as a result of the consultation and the changes (if any) made as a result of those representations.

4. On the day the Minister lays the proposals and explanatory document, the period for Parliamentary consideration begins. This lasts 40 days under negative and affirmative resolution procedure and 60 days under super-affirmative resolution procedure. If you want a copy of the proposals and the Minister's explanatory document laid before Parliament, you will be able to get them either from the Government department concerned or by contacting the BRE:

<http://www.berr.gov.uk/lros>

Parliamentary Scrutiny

5. Both Houses of Parliament scrutinise legislative reform proposals and draft LROs. This is done by the Regulatory Reform Committee in the House of Commons and the Delegated Powers and Regulatory Reform Committee in the House of Lords.

6. Standing Orders for the Regulatory Reform Committee in the Commons stipulate that the Committee considers whether proposals:

- (a) appear to make an inappropriate use of delegated legislation;
- (b) serve the purpose of removing or reducing a burden, or the overall burdens, resulting directly or indirectly for any person from any legislation (in respect of a draft Order under section 1 of the Act);
- (c) serve the purpose of securing that regulatory functions are exercised so as to comply with the regulatory principles, as set out in section 2(3) of the Act (in respect of a draft Order under section 2 of the Act);
- (d) secure a policy objective which could not be satisfactorily secured by non-legislative means;
- (e) have an effect which is proportionate to the policy objective;
- (f) strike a fair balance between the public interest and the interests of any person adversely affected by it;
- (g) do not remove any necessary protection;
- (h) do not prevent any person from continuing to exercise any right or freedom which that person might reasonably expect to continue to exercise;
- (i) are not of constitutional significance;
- (j) make the law more accessible or more easily understood (in the case of provisions restating enactments);
- (k) have been the subject of, and takes appropriate account of, adequate consultation;
- (l) give rise to an issue under such criteria for consideration of statutory instruments laid down in paragraph (1) of Standing Order No 151 (Statutory Instruments (Joint Committee)) as are relevant, such as defective drafting or failure of the department to provide information where it was required for elucidation;
- (m) appear to be incompatible with any obligation resulting from membership of the European Union.

7. The Committee in the House of Lords will consider each proposal in terms of similar criteria, although these are not laid down in Standing Orders.

8. Each Committee might take oral or written evidence to help it decide these matters, and each Committee would then be expected to report.

9. Copies of Committee Reports, as Parliamentary papers, can be obtained through HMSO. They are also made available on the Parliament website at:

- [Regulatory Reform Committee](#) in the Commons; and
- [Delegated Powers and Regulatory Reform Committee](#) in the Lords.

10. Under negative resolution procedure, each of the Scrutiny Committees is given 40 days to scrutinise a LRO, after which the Minister can make the order if neither House of Parliament has resolved during that period that the order should not be made or to veto the LRO.

11. Under affirmative resolution procedure, each of the Scrutiny Committees is given 40 days to scrutinise a LRO, after which the Minister can make the order if it is not vetoed by either or both of the Committees and it is approved by a resolution of each House of Parliament.

12. Under super-affirmative procedure each of the Scrutiny Committees is given 60 days to scrutinise the LRO. If, after the 60 day period, the Minister wishes to make the order with no changes, he may do so only after he has laid a statement in Parliament giving details of any representations made and

the LRO is approved by a resolution of each House of Parliament. If the Minister wishes to make changes to the draft LRO he must lay the revised LRO and as well as a statement giving details of any representations made during the scrutiny period and of the proposed revisions to the order, before Parliament. The Minister may only make the order if it is approved by a resolution of each House of Parliament and has not been vetoed by either or both relevant Committees.

How to Make Your Views Known

13. Responding to this consultation document is your first and main opportunity to make your views known to the relevant department as part of the consultation process. You should send your views to the person named in the consultation document (Simon Richardson at the Department for Culture, Media and Sport). When the Minister lays proposals before Parliament you are welcome to put your views before either or both of the Scrutiny Committees.

14. In the first instance, this should be in writing. The Committees will normally decide on the basis of written submissions whether to take oral evidence.

15. Your submission should be as concise as possible, and should focus on one or more of the criteria listed in paragraph 6 above.

16. The Scrutiny Committees appointed to scrutinise Legislative Reform Orders can be contacted at:

Delegated Powers and
Regulatory Reform Committee
House of Lords
London
SW1A 0PW
Tel: 0207 219 3103
Fax: 0207 219 2571
[mailto: DPDC@parliament.uk](mailto:DPDC@parliament.uk)

Regulatory Reform Committee
House of Commons
7 Millbank
London
SW1P 3JA
Tel: 020 7219 2830/4404/2837
Fax: 020 7219 2509
[mailto: regrefcom@parliament.uk](mailto:regrefcom@parliament.uk)

Non-disclosure of responses

17. Section 14(3) of the LRR Act provides what should happen when someone responding to the consultation exercise on a proposed LRO requests that their response should not be disclosed.

18. The name of the person who has made representations will always be disclosed to Parliament. If you ask for your representation not to be disclosed, the Minister should not disclose the content of that representation without your express consent and, if the representation relates to a third party, their consent too. Alternatively, the Minister may disclose the content of the representation in such a way as to preserve your anonymity and that of any third party involved.

Information about Third Parties

19. If you give information about a third party which the Minister believes may be damaging to the interests of that third party, the Minister does not have to pass on such information to Parliament if he does not believe it is true or he is unable to obtain the consent of the third party to disclosure. This applies whether or not you ask for your representation not to be disclosed.

20. The Scrutiny Committees may, however, be given access on request to all representations as originally submitted, as a safeguard against improper influence being brought to bear on Ministers in their formulation of legislative reform orders.

Better Regulation Executive
Department for Business, Innovation and Skills

Appendix D: Consultation Criteria

The criteria in the “[Code of Practice on Consultation](#)” published by the BRE apply to all UK national public consultations on the basis of a document in electronic or printed form. They will often be relevant to other sorts of consultation.

Though they have no legal force, and cannot prevail over statutory or other mandatory or external requirements (e.g. under European Community law) they should otherwise generally be regarded as binding on UK Departments and their agencies unless Ministers conclude that exceptional circumstances require a departure.

The consultation criteria, which have been applied to this consultation, are:

1. When to consult

Formal consultation should take place at a stage when there is scope to influence the policy outcome.

2. Duration of consultation exercises

Consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible.

3. Clarity of scope and impact

Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals.

4. Accessibility of consultation exercises

Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach.

5. The burden of consultation

Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees’ buy-in to the process is to be obtained.

6. Responsiveness of consultation exercises

Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.

7. Capacity to consult

Officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.

Appendix E: Glossary

These terms have the following meanings when used in this consultation document.

“the 1963 Act” means the Betting, Gaming and Lotteries Act 1963;

“the 2005 Act” means the Gambling Act 2005;

“child” means an individual who is less than 16 years old;

“Commission” means the Gambling Commission;

“DCMS” means the Department for Culture, Media and Sport;

“facilities for gambling” has the same meaning as in section 5 of the 2005 Act;

“LRO” means the Legislative Reform Order;

“LRRRA” means the Legislative and Regulatory Reform Act 2006;

“premises licence” means a licence issued under Part 8 of the 2005 Act;

“non-gambling function” means a function which does not involve providing facilities for gambling”;

“track” has the same meaning as section 353(1) of the 2005 Act;

“track premises licence” means a betting premises licence issued in respect of a track;

“young person” is defined as an individual who is not a child but who is less than 18 years old.

Appendix F: Impact Assessment

See IA: DCMS045w



department for
**culture, media
and sport**

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www.culture.gov.uk