

The Gambling Act 2005: A bet worth taking? - Culture, Media and Sport Committee

4 Casinos

157. The 2005 Act allows for four types of casino to operate in the UK: Small, Large, Regional and existing 1968 Act Casinos. The original Bill placed no limit on the number of Small and Large Casinos that might be set up, but concerns that a proliferation of casinos might lead to an increase in problem gambling meant that the final Act limited the number to eight of each. A Casino Advisory Panel was set up to make recommendations on where the Small, Large, and just one Regional, Casinos should be permitted. Though the Gambling Act allowed for one Regional Casino, the Statutory Instrument needed to approve its location was defeated in the House of Lords in 2007 and never reintroduced. Several aspects of the regime for casinos have been criticised as being problematic for the sector. The two most significant criticisms pertain to the licensing process for casinos, and the relationship between size limits and machine allowances.

New Large and Small Casinos

158. Sixteen local authorities were granted permission by the Casino Advisory Panel to host a new Small or Large Casino. Sixty-eight local authorities originally applied in 2006 for permission to have either a new Small or Large Casino.

159. The process of casino licensing created by the Act is complex, expensive and ambiguous. First, the local authority has to invite applications for a premises licence. If more than one application is received they are then subject to a two stage consideration process. The first is regulatory and operates in the same way as any other gambling premises licensing process. The second is a benefit test to establish which application would be most likely to provide the greatest benefit to the authority's area. The Casino Network—a group of the sixteen licensing authorities given permitted area status—told us that "neither the term 'benefit' [in relation to the benefit test] nor the mode of determination was prescribed, although Schedule 9 of the Act did provide for publication of a Code of Practice, with which authorities would be bound to comply".[196] Such was the extent and complexity of the changes brought in under the Act that it was "necessary for authorities to devise, consult upon and adopt new gambling policies specifically for the casino licensing process".[197] The Casino Network listed seven reasons cited by its members for the delays in granting licences to new casinos. These included the cost to authorities of running the process and concerns that any decision made by authorities could be subject to legal challenge.[198]

160. The National Casino Industry Forum (NCiF) criticised the decision to allocate ten of the sixteen new casino licences to areas where 1968 Act Casinos were already in operation. This, it said, led to many licences not being utilised as they would either not be economically viable in competition with existing casinos or because casino operators of 1968 Act Casinos took up licences with no intention of constructing a new casino which would compete with their existing businesses. NCiF told us that, of the sixteen local authorities, six had abandoned plans to continue with the licensing process, adding that:

Only one licence was subject to a proper competition and is operating. Of the remaining nine, two LA's have just begun their process, three have gone to legal challenge, four licences have been granted but have not been developed and of that four only one is in a genuine development process.[199]

161. The NCiF argued that investment in the casino industry "collapsed" following the Act partly due to this overlap in permitted areas between the 1968 Act provisions and those of the new Act.[200] The NCiF and other casino groups called for existing licences to become portable between permitted areas. They argued that this would allow them to move existing unprofitable casinos into areas where they would be economically viable. BISL told us that portability would "mean that casinos can be established in areas where local authorities see a demand and actively want their presence".[201]

162. The industry told us that there was no clear way for the impact of the new licensing system to be assessed.[202] Subsequently, one Large Casino has been opened in Newham, close to the Olympic Park and, very recently, two Large Casino licences—in Milton Keynes and Great Yarmouth—have been awarded.

163. We believe that the stated aim of the Government—to test the impact of the new casinos—would be almost impossible to implement in a timely and cost effective manner due to the impracticality of identifying whether any increase in problem gambling was caused by the new casinos as opposed to the presence of any other forms of gambling including online. The Government should reconsider its plans to test the impact of the new casinos. Given that casinos have some of the most comprehensive measures for tackling problem gambling and in the light of some of our other recommendations we believe that casino operators will already be doing enough to enable the industry to grow safely.

164. The delays in the licensing process for new Small and Large Casinos are significant and the result of an overly complex and bureaucratic process imposed on local authorities. Insufficient guidance was provided by central Government to the licensing authorities which has led to increased consultation and administrative costs. The Government should review the licensing process for Small and Large Casinos with a view to developing a new simplified and less expensive licensing process.

165. Both the 1968 and 2005 Act provisions successfully prevented casinos from proliferating or clustering. However, there is no evidence that allowing local authorities to decide independently whether or not they wish to have a casino would lead to a significant increase in the total number of casinos. We believe that the decision as to whether a casino would be of benefit to a local area should be made by local authorities rather than central dictat. We recommend that any local authority be able to make the decision as to whether or not they want a casino. As a step towards this, we recommend that existing 1968 Act Casino licences are made portable, allowing operators to relocate to any local authority provided that they have the consent of that local authority. The portability of these licences would be constrained by the existing 'triple

lock' contained in the Gambling Act: the need to obtain local authority approval, a premises licence and planning permission.

166. Industry representatives argued that Small Casinos—of which none has currently been opened—are not financially viable due to three factors, two of which have been discussed earlier in this Report: high casino duty rates, the cost of the licence application process and the restrictions on machine numbers. Moreover, we were told that there was a fundamental flaw in the design of the new tripartite classification of casinos. Each of the three types of new casino is permitted a different machine allowance according to its size and the number of gaming tables it has. New Large Casinos are allowed a machine/table ratio of 5:1, up to a maximum of 150 machines. New Small Casinos are allowed a machine/table ratio of 2:1, up to a maximum of 80 machines. Casinos operating under Gaming Act 1968 licences remain limited to 20 machines each. This means that, in order to qualify for the maximum number of permitted machines, Small Casinos would have to have 40 gaming tables, and therefore a larger floor space, than Large Casinos which would only be required to have 30 tables.

167. There were two reasons for linking machine numbers to tables. One was that it would encourage punters to take a break from machine play and turn to table play, which is less intensive. It was also thought that forcing Small Casinos to have a large floor space would prevent their proliferation on the high street. Providing tables to break up machine-based play assumes, however, that the same people will play on tables and machines, which may not be the case. Furthermore, we have seen no evidence that the ratio of tables to machines was developed on the basis of sound evidence. John Penrose MP, Minister for Tourism and Heritage, told us that "an awful lot of the numbers in the Act were plucked out of the air and were altered on an unscientific basis as the Bill went along".[203] However, DCMS argued that the ratios of machines to tables should not be changed, because there was no evidence for any alternative being any better.[204]

168. Concerns were expressed during the passage of the Gambling Act that the Small Casino model was not economically viable.[205] This was in part due to their table/machine ratio. The National Casino Industry Forum argued that a uniform 5:1 machine to table ratio capped at 150 machines should apply to both Small and Large Casinos.[206]

Licence category	Minimum (age restricted) table gaming area	Minimum additional (age restricted) table gaming area	Minimum non-gaming area	Minimum total customer area	Minimum number of gaming tables	Categories of gaming machines permitted	Machine/table ratio
Small	500m ²	0	250m ²	750m ²	1	Up to B	2:1 (cap 80)
Large	1000m ²	0	500m ²	1500m ²	1	Up to B	5:1 (cap 150)
Regional	1000m ²	2500m ²	1500m ²	5000m ²	40	Up to A	25:1 (cap 1250)

Table 2: Source: DCMS Draft Gambling Bill: Government response to the 1st Report of the Joint Commission on the Draft Gambling Bill, Session 2003-04, June 2004, CM 6253, p29.

169. The Act has created a situation where the Small Casino model is not considered financially viable. This is partly because a Small Casino must possess a larger floor-area for table play than a Large Casino in order to maximise its machine allowance. We note that not one Small Casino has been developed. It was not Parliament's intention in 2005 to make Small Casinos completely unviable. Given the fact that all casinos are highly regulated and access is limited regardless of the size, we see no rationale for the different gaming machine allowance. As 5:1 is the ratio presently in the legislation, we recommend that the Government introduce a single ratio of five machines to one table for both Small and Large Casinos. Local authorities should have the power to increase the number of machines permitted per table if they wish to do so and an operator requests it.

1968 Act Casinos

170. Existing 1968 Act Casinos, numbering about 140, are permitted to operate under the 2005 Act. Parliament's view at the time of the passage of the Act was that the existing 1968 Act Casinos should not share all the privileges enjoyed by the new 2005 Act Casinos, including being able to transfer their licences across administrative boundaries.[207] The 1968 Act Casinos are, as one of our witnesses told us, "frozen in aspic".[208] There are currently about 15 unused 1968 Act Casino licences. Some witnesses argued that the 2005 Act was partially responsible for the decline in investment in the UK casino sector. In particular, the Act created a disadvantage for existing 1968 Act casinos by, for example, limiting gambling machines to 20. The sector has also been adversely affected by a mixture of other factors including the smoking ban, the economic downturn and duty rates. The high-end of the casino sector has contracted, resulting in closures and job losses. The sector as a whole—as described by the NCiF—has grown to a degree but spend-per-customer has reduced.[209]

171. The casino sector enjoyed a number of liberalisations prior to the implementation of the 2005 Act, including the freedom to advertise. In a debate in the House of Lords, in 2005, Lord McIntosh, then the Minister with responsibility for gambling, set out the Government's position that 1968 Act Casinos could in the future be permitted some or all of the freedoms enjoyed by Small and Large Casinos if the latter were deemed not to pose a threat.[210] Lord MacIntosh argued that:

the impact of casinos with the additional entitlements needs to be tested and carefully evaluated before the door is opened more widely [but that] If the initial eight/eight/eight stage is satisfactory, it will certainly be possible to extend the entitlements more widely, including to existing casinos.[211]

172. There is now a two-track system for casinos, with existing 1968 Act Casinos unable to modernise and take advantage of the allowances granted to new Small and Large Casinos. However, as the development of these new

casinos has been so slow following the Act—with only one Large Casino having opened to date and two more having been permitted—there is currently no way of assessing what impact allowing 1968 Act Casinos the same freedoms would have. In principle, we see no logical reason for maintaining different regulatory regimes and believe that 1968 Act Casinos should be given the same freedoms as new ones.

Regional Casinos

173. Regional (also termed "Resort", or "Super") Casinos proved to be one of the most contentious issues during the passage of the Gambling Bill.[212] Despite twenty-seven local authorities applying for permission to host a Regional Casino, one tabloid newspaper chose to run a campaign to "Kill the Bill" on the basis of opposition to them.[213] Phrases referring to people carrying the "scars", "a very bruising time" and even the "guns at Balaclava" were used by several witnesses to describe the experience of the passing of the Act as it related to Regional Casinos.[214]

174. The Chair of the Gambling Review Board, Sir Alan Budd, defined a Resort Casino as a complex including:

hotel rooms, restaurants, bars, performance space, possibly conference facilities and most important, a range of gambling facilities. The gambling facilities usually include large numbers of casino table games, fruit machines (slot machines with unlimited stakes/prizes) some form of bingo and sports betting.[215]

This type of casino was not allowed under the 1968 Act because of the then restrictions on entertainment, types of gambling and gaming machines. They are, however, an important feature of the regulated gambling industry in much of the English-speaking world, in Europe and other countries such as Macau.

175. Sir Alan Budd noted that these casinos had been used in Atlantic City and in South Africa to promote economic regeneration. In each case, a local monopoly had been created to ensure profitability and attract commercial operators who were then obliged to deliver regeneration benefits.[216] This idea was taken up in a 2003 policy paper relating to gambling legislation, which indicated that casinos should provide regeneration benefits, possibly as a licensing condition.[217] The 2004 Joint Committee on the draft Gambling Bill noted that there was confusion as to what the Government meant by 'regeneration benefits' and which types of casino would be required to produce them. It urged the Government to make Regional Casinos a separate category of casino.[218] The second Joint Committee on the draft Gambling Bill, which concentrated on the government's proposals for Regional Casinos, was told by the Rt Hon Keith Hill MP, the then Housing and Planning Minister, that Government policy on casinos included identifying areas for locating "regionally-significant casinos [...] on the grounds that such developments are likely to provide a major contribution to regeneration, tourism and economic development".[219]

176. Debate on the Bill, particularly during Second Reading in the House of Commons, focused on whether Regional Casinos were an effective agent of

regeneration, whether they were viable unless they had a local monopoly and whether they would lead to an increase in problem gambling, an argument which was linked to numbers and categories of gaming machines. Ministers estimated at that time that the British market could sustain between 20 and 40 Regional Casinos.[220] The Government was then pressed in Committee and in the House of Lords into restricting the number of Regional Casinos. In the run up to the end of the Parliamentary session, it was only possible to reach agreement to permit one Regional Casino in order to test its impact.[221]

177. The Gambling Act established a Casino Advisory Panel (CAP) to make recommendations, rather than final decisions, to the Secretary of State for Culture, Media and Sport on locations for the proposed eighteen Small and Large Casinos, as well as the one Regional Casino.[222] The primary consideration for the CAP in recommending locations was their potential to act as an effective test of the social impact and regenerative effects of casinos. It was widely believed that Blackpool would be awarded the Regional Casino licence as it had a strong regeneration case.[223]

178. In January 2007, the Advisory Panel announced that its recommendation for the site of the Regional Casino was Manchester. In March 2007, the Statutory Instrument put forward by the Government to introduce the three types of new casino was defeated in the House of Lords. In July 2007, the new Prime Minister, the Rt Hon Gordon Brown MP, expressed the view that regeneration could be achieved by better means and put off the introduction of Regional Casinos pending a future review.

179. The Local Government Association stated that "the eventual decision not to go ahead with the regional casino in Manchester was an unacceptable cost to local taxpayers".[224] NCiF described the CAP as "an unmitigated disaster".[225] The Regional Casinos would have fallen under the same tax rate as Large Casinos but, in order to obtain an operating licence, they would need to contribute to regeneration.

A FUTURE FOR REGIONAL CASINOS?

180. We have encountered, throughout our inquiry, a general reluctance openly to discuss the possibility of reintroducing a Statutory Instrument to permit the development of Regional Casinos. Neil Goulden suggested that "people are a little scared to put their head above the parapet on [... the issue of Regional Casinos] because I think a few people carry the scars. [...] from a personal point of view, I think that a regional casino could well be a good thing but I don't think anyone in the current industry is going to put their head above the parapet and push for it".[226] However, the industry still holds that the concept of Regional Casinos is a sound one and that they can "generate visitation and leisure spend unachievable by other means".[227] The Minister argued that:

I think it would be a huge mistake for us to try and rerun the 2005 Act without enough facts, because all you would get is whoever has the best hotline into the largest circulation daily newspaper having a competing dialogue via megaphone, which is what happened then.[228]

181. We visited Macao and Australia to see how Resort-type Casinos were operated and licensed in other jurisdictions. Details of our findings can be found in Annex 1 to this Report. We found that Resort-type Casinos can be operated successfully in a situation where taxation is favourable and a monopoly or near-monopoly exists for licences and therefore category A machines with their unlimited stakes and prizes. About a third of Crown Limited's revenue was generated from international visitors who were a vital source of income for Australian Regional Casinos. The company explained that its business model was to attract the high-end of the market by offering luxury hotels. It targeted the Asian market where there was significant wealth. Crown Limited operated three private jets bringing in Asian 'high rollers', and owned a yacht for their use whilst in Australia. Perth, where one casino resort complex was located, was, importantly, only a 4-5 hour flight from Singapore. The operators we spoke to observed that the Chinese high-rollers loved Australia not just for the gambling but because they had wider business interests there too. The operators saw themselves as in competition with Las Vegas, Singapore and Macao for the custom of the high-rollers. We heard that some Resort Casinos had suffered a drop in income when new Resort complexes opened in Singapore.

182. In Macao, we visited the Venetian and City of Dreams Casinos, two of the five Destination Casinos situated there. In total, Macao's 33 casinos generated a gross gaming revenue of US\$ 23.7 billion (2010). This makes up the vast proportion of Macao's gross domestic product which, in 2010, was US\$ 27.2 billion. We spoke in detail to operators about the feasibility of introducing an integrated resort complex in the UK. The tax regime was identified as an extremely important factor, as was the availability of high-rollers and the means with which to attract them. Singapore and Australia set a 10-12% gaming tax rate for international players, compared to a rate of 8% in Las Vegas. The rate in Macao is 39%, but casinos there have the advantage of proximity to mainland China and are not liable to pay income tax until 2013. A relatively low tax rate for high-rollers enables the casino operator to offer a rebate. In the UK, higher-level casino duty rate is 50% and we were told that no resort complex would be able to offer a rebate to attract the high-rollers at that level. The operators said that London casinos currently attracted business from high-rollers because they were in London for other business. We were told, however, that realistically London was now the only place within the UK which might be attractive to operators as a site for a Regional Casino because of its size, number of visitors and the wider entertainment available there.

183. The current wariness of casino operators about re-entering the debate on Regional Casinos has partly resulted from the confusion created after the passage of the 2005 Act and the misjudged process for selecting a location. Another factor making the development of Regional Casinos in the UK relatively unattractive is the UK's comparatively high rate of casino duty. We recognise that changing this would be extremely contentious and is unlikely to be considered in the near future. We conclude therefore, that the opportunity to establish one or more Regional Casinos in the UK has passed and, without a change in the political and economic climate, is unlikely to reoccur.