

## **The maintenance of personal licences**

Consultation document  
October 2011

# 1 Introduction

- 1.1 The Gambling Commission (the Commission) conducted a consultation in November 2006 to consider the requirement to hold personal licences. The Commission stated at that time that the requirement would be kept under review. The five year maintenance point provides an opportunity to conduct the review and to ensure that this part of the regulatory regime is compliant with the principles of the Hampton Report<sup>1</sup>.
- 1.2 The consultation seeks views as to whether the existing requirements as set out in the Licence Conditions and Codes of Practice (LCCP) at Condition 1.2 for personal management and functional licences remain appropriate and serves to protect the licensing objectives of the Gambling Act 2005 (the Act) in ways which operators would be unable to do themselves.
- 1.3 The consultation also seeks views on aspects of the maintenance process itself, the Commission's existing approach to disciplinary and regulatory sanctions for personal licence holders and an enhancement to the online personal licence register.
- 1.4 The consultation opens on 20 October 2011 and closes on 12 January 2012. The response document will be published in March 2012.
- 1.5 The timetable for the introduction of any changes affecting personal licence holders will be detailed in the responses document. Personal licence maintenance fees are due on or before the 30 September 2012 and on a rolling cycle thereafter.

# 2 Background

- 2.1 The current requirement in the LCCP is for the following post holders to hold a personal management licence (PML)<sup>2</sup>:
- the overall management and direction of the licensee's business or affairs
  - the licensee's finance function as head of that function
  - the licensee's gambling regulatory compliance function as head of that function
  - the licensee's marketing function as head of that function
  - the licensee's information technology function as head of that function in so far as it relates to gambling-related information technology and software
  - oversight of the day to day management of the licensed activities at an identified number of premises licensed under Part 8 of the Act or across an identified geographical area
  - in the case of casino and bingo licences only, oversight of the day to day management of a single set of premises licensed under Part 8 of the Act.
- 2.2 A general condition of all casino operating licences except ancillary remote licences is that the following groups of employees hold a personal functional licence (PFL):
- dealer in respect of casino games
  - cashier
  - inspector
  - security staff employed to watch gaming
  - supervisor of gaming activities.
- 2.3 The first issue date for personal licences under the Act was 1 September 2007. The first periodic fees for those personal licence holders who continue to hold a licence, will be due on or before the 30 September 2012 and on a rolling cycle thereafter.

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<sup>1</sup> **Reducing administrative burdens:** effective inspection and enforcement HM Treasury 2005

<sup>2</sup> This is a general condition attached to the licence of **all casino, bingo, general and pool betting, betting intermediary, gaming machine general, gaming machine technical, gambling software and lottery managers licences except ancillary remote licences**

- 2.4** Failure to pay the maintenance fee by the fee due date will result in the revocation of the personal licence. This is provided for in the Act under the provisions of section 119 (3) by virtue of section 128.
- 2.5** In response to the consultation on personal licences in November 2006 and specifically in relation to the fee to maintain a personal licence, it was said that in order to deliver the licensing objectives the Commission needed to undertake general and specific monitoring, compliance and enforcement functions in relation to personal licences. It was considered important to ensure that existing personal licence holders remain as suitable to continue to hold a licence as new entrants over time. This could be achieved through periodic integrity checks, the recording of information on individuals that is required to be passed to the Commission by operating licence holders and an up to date central register of personal licence holders. This in turn should enhance the confidence of customers and other stakeholders.
- 2.6** We are required to recover the costs of our activities through fees and it was decided that the most cost effective means of achieving this was through a requirement to pay a five yearly maintenance fee to the Commission, thus providing a mechanism for personal licence holders to contribute towards the compliance and monitoring costs of the Commission whilst they continue to hold a licence.
- 2.7** The maintenance fee levels were set at the same level as those for an application. They were reviewed as part of the 2008 consultation on fees and are currently £185 for a PFL and £370 for a PML. The fee is intended to pay (over five years) for compliance and enforcement activities associated with personal licences as well as their maintenance and monitoring. It also provides for the Commission to reassess the suitability of licence holders to continue to hold a personal licence. No changes to maintenance fee levels have been recommended in the fees review consultation which was published by DCMS in September 2011.
- 2.8** The Commission intends to take the opportunity at the fee due date to check the continued suitability of personal licence holders by exercising its powers under section 122 of the Act to request information that would allow it to do so. The Commission is however mindful that this is not a renewal process. We will only seek sufficient information to allow us to make an assessment of the current suitability of the personal licence holder and will use that information together with that available through integrity/criminality checks, other sources and existing information we may hold on licensees.

### **3 The requirement to licence individuals**

#### **Personal licences**

- 3.1** The legislation and fees regulations provide for the maintenance process to be applied to both PMLs and PFLs. The Commission, in considering its position and approach to personal licensing in 2006, took into account:
- a. what risks there may be in allowing relevant staff employed by gambling operators to do their jobs without a personal licence
  - b. whether any risks could be adequately managed by ordinary commercial safeguards or by regulatory tools other than personal licences
  - c. how effective personal licences may be in controlling or mitigating any risks.
- 3.2** The Commission originally approached the subject of personal licences on the basis that they should only be required where there was a sufficient case for them in terms of their effectiveness in controlling risks to impose the additional regulatory burden. Each relevant sector was risk assessed.
- 3.3** The outcome of that risk assessment for PMLs was that where post holders will have a major influence on compliance with the licensing objectives we would require those individuals to be licensed.

- 3.4** This requirement reinforces the personal responsibility of those individuals and ensures that adherence to the LCCP is seen as an integral part of their role and reinforces the compliance function within licensed operators.
- 3.5** The outcome of the risk assessment for PFLs was that, with the exception of those roles identified within the casino industry where traditionally 'functional' staff held Gaming Board licences, the potential risks to the licensing objectives from those performing other roles in other sectors was considered low to medium as they did not generally speaking have the ability to affect the outcome of gambling. The Commission therefore concluded that the relevant operational functions in sectors other than the casino sector did not need regulation by means of PFLs but that it would keep the matter under review, including the continuing need for PFLs in the casino sector.

### **Personal management licences**

- 3.6** In light of our experience since the initial consultation the Commission does not consider that changes to the current arrangements for PMLs are required. The personal accountability of critical post holders in upholding the licensing objectives and in ensuring compliance with the LCCP, such as the reporting of key events, remains an important aspect of the overall regulatory framework.
- 3.7** We consider it to be too great a risk to rely on the actions of operators alone to meet these objectives and therefore do not propose changing the current arrangements.
- 3.8** However we are interested in hearing views as to whether there are ways in which the current requirements may be modified and whether all the prescribed post holders are still relevant to fulfil the objectives set out above.

### **Consultation questions**

- Q1. Is the overall set of requirements for PMLs as set out in the LCCP at 1.2 appropriate? These are detailed at Appendix 1.
- Q2. Are the specified management offices for those required to hold a PML appropriate? These are set out at 2.1 above.
- Q3. Do you have any other comments as to the current licence condition relating to PMLs?

### **Personal functional licences**

- 3.9** As noted above (1.1) the Commission is committed to working to the principles contained in the Hampton Report. We only seek to regulate to the extent required by law and the associated regulatory structure and in so far as necessary in order to protect the licensing objectives of the Act. Therefore where, in light of experience, we consider it appropriate to do so we will look to lessen the burden of regulation or remove it altogether.
- 3.10** The Commission, in considering its position and approach to personal licensing in 2006, took into account:
- what risks there may be in allowing relevant staff employed by gambling operators to do their jobs without a personal licence
  - whether any risks could be adequately managed by ordinary commercial safeguards or by regulatory tools other than personal licences
  - how effective personal licences may be in controlling or mitigating any risks.
- 3.11** In light of the risk assessment we decided that, with the exception of those roles identified within the casino industry where traditionally 'functional' staff held Gaming Board licences, the potential risks to the licensing objectives from those performing other roles in other

sectors was considered low to medium. However we would keep the matter under review, including the continuing need for PFLs in the casino sector.

- 3.12** The Commission now wishes to revisit these issues in light of experience in relation to PFLs.
- 3.13** The Commission therefore seeks views as to why the protections offered by the licensing of post holders (2.2 above) by the Commission may not be as effectively provided by an operator's own employment and compliance procedures and if so, in what ways this might be achieved without unduly increasing risk to the licensing objectives.
- 3.14** The Commission also seeks views as to whether all the functional posts required to hold a PFL remain appropriate. Views are sought on whether the range of posts covered by the requirement should either be reduced or extended.
- 3.15** The Commission considers the suitability of licensees by five criteria – identity, competence, financial circumstances, integrity and criminality. The fact that there is a licensing system in place may well act as a deterrent to unsuitable applicants; they may also be identified as a result of the checks conducted at application stage. However experience to date indicates that the nature of the events which cause us to question the suitability of a PFL holder (once licensed) tend to be of a relatively minor nature in both scale and impact in the majority of cases. The incidents themselves tend to affect operators rather than customers, such as defrauding the employer.
- 3.16** It is in the operator's interests to ensure that employees behave in a way that upholds the integrity of their business. Operators, by virtue of their own Gambling Commission licence, are obliged to uphold the licensing objectives and to ensure, in so far as is possible, that their employees do likewise.

## Consultation questions

- Q4. In what ways does the Commission's licensing of PFL holders protect the licensing objectives and the broader regulatory structure in ways which employers are not already capable of achieving via their existing powers in that capacity?
- Q5. Should the requirement for PFLs be discontinued?
- Q6. Are all the types of post holders required to hold a PFL appropriate (2.2 above) or could the range be reduced?
- Q7. Should the requirement for PFLs be extended to other functional roles or gambling sectors?
- Q8. Do you have any other comments as to the current licence condition relating to PFLs?

## 4 The maintenance process

- 4.1** As noted above the Commission intends to take the opportunity at the fee due date to check the continued suitability of personal licence holders. However this is not a renewal process as licences are continuous unless surrendered, revoked, lapsed or forfeited. We will only seek sufficient information to allow us to make an assessment of the current suitability of the personal licence holder and will use that information together with that available through integrity/criminality checks, other sources and existing information we may hold on licensees.

- 4.2** Licence holders will therefore be requested to confirm their identity and contact details, to complete and return a CRB/Disclosure Scotland application form, provide a current photograph and supply the following information:
- notification of key events
  - notification of any current or pending regulatory or criminal investigations
  - the name of current employer
  - a signed declaration to confirm the validity of the information provided.

(A draft of the form is available at Annex A)

- 4.3** If the licence holder has failed to advise the Commission of key events and changes that could affect their licence the maintenance form provides the opportunity for the holder to make a full statement of all historical and current key events. Failure to keep the Commission informed of key events will be taken into consideration when assessing the suitability of the licensee to continue to hold a licence.
- 4.4** Based on information the Commission already holds the maintenance form will be pre-populated with an opportunity for the licence holder to provide amendments.
- 4.5** The Commission is currently exploring the possibility of offering the facility for completing the maintenance form online and for paying the fee online. This option is subject to further testing and resource constraints.

## Consultation questions

- Q9. Do you have any comment as to the information being requested on the maintenance form?
- Q10. Do you consider the provision of an online option to be of benefit and if so would you envisage using it yourself?
- Q11 Do you have any other comments as to the maintenance process?

## 5 Disciplinary and regulatory sanctions for licence holders

- 5.1** The Commission has published a Statement of principles for licensing and regulation (Sept 2009) and a Licensing, compliance and enforcement policy statement (Sept 2009). These documents set out in detail the manner in which the Commission carries out its statutory functions and are reflected in the handling of the licensing and regulation of personal licence holders. No changes to these Statements are envisaged at this time.
- 5.2** The Statements include an explanation of how the Commission views the relevance of criminal convictions, the failure to declare convictions, decision making based on evidence and the requirement to impose the minimum regulatory burden whilst promoting the licensing objectives.
- 5.3** The LCCP contains a suite of general conditions which are attached to personal licences under Section 75 of the Gambling Act 2005. They are as follows:
1. Personal licence holders must take all reasonable steps to ensure that the way in which they carry out their responsibilities in relation to licensed activities does not place the holder of the operating or any relevant premises licence in breach of their licence conditions.
  2. Personal licence holders must keep themselves informed of developments in gambling legislation, codes of practice and any Commission guidance (whether issued

on the Commission website or communicated direct to licence holders) relevant to their role. Holders of personal functional licences must keep their technical competence in respect of their licensed activities up to date.

3. Personal licence holders must notify the Commission of the occurrence of any of the following key events within five working days, or as soon as reasonably practicable after the licensee becomes aware of the event's occurrence:

- the imposition of a disciplinary sanction against them, including dismissal, for gross
- misconduct
- their resignation from a position for which a personal licence is required following
- commencement of disciplinary proceedings in respect of gross misconduct
- their disqualification from acting as a company director
- the entry of any court judgment against them
- the presentation of a petition for their bankruptcy or sequestration or their entering
- into an individual voluntary agreement
- their conviction for any criminal offence or receipt of a formal police caution or any
- other out-of-court disposal
- the imposition of any sanction or penalty against them following an investigation by
- any professional, statutory, regulatory or government body
- a change in their name or address.

**5.4** Views are sought on two aspects of these general conditions. Firstly the conditions require notification to the Commission of the entry of 'any court judgment against them (the licence holder)' and secondly 'conviction for any criminal offence or receipt of a formal police caution or any other out-of-court disposal'. This requirement has resulted in the Commission receiving (and having to process) information about such incidents which do not present a risk to the licensing objectives and which are not relevant to our role as a regulator. Therefore we are consulting as to whether only 'Relevant Offences' as defined under Schedule 7 of the Gambling Act 2005 should be required for notification, and not any other offences (a copy of Schedule 7 is attached at Appendix 2).

**5.5** Secondly the Commission is seeking views as to whether there should be a requirement on licence holders to notify us if they are subject to any *current* or *pending* investigation by a statutory, regulatory or governing body, their employer or are the subject of a criminal investigation rather than, as is currently the case, being required to notify us after the outcome of such proceedings. This is because of the possibility that, in particular circumstances, the suspension of a licence may be required in light of an ongoing investigation or criminal process.

**5.6** The Commission is continually seeking ways to make our processes more efficient, transparent and cost effective whilst fulfilling our regulatory functions. One way in which we can do this is by offering greater clarity as to the process by which a personal licence may be revoked. We are consulting as to whether, when we decide to revoke a personal licence, the process should be managed as follows:

- we would write to the licence holder, providing the basis for our decision and invite them to supply further information. They would then have 21 days from the date on our decision letter to provide a response. Their response may address any factual errors in our assessment (for example, an error in respect of their identity, or an

error in assessing their competence or criminal history) and we may also invite them to provide mitigating information

- if we do not receive a response from the licence holder within the 21 days the decision to revoke their licence will automatically take effect.

By this means there is a presumption that the licence will be revoked unless or until evidence is obtained from the appellant within a set time scale.

## Consultation questions

- Q12. Is it appropriate for the Commission to amend the general conditions in the LCCP such that only offences under Schedule 7 of the Gambling Act 2005 are required to be notified by personal licence holders?
- Q13. Should there be an additional requirement in the general conditions in the LCCP on personal licence holders to notify the Commission of current or pending investigations as detailed above (5.4)?
- Q14. Should the Commission further simplify the disciplinary and regulatory process for personal licence holders and applicants by working on the basis that unless and until countervailing evidence is provided by the person concerned the assumption is made to revoke a licence based on the evidence available to us?
- Q15. Would it be appropriate for the Commission to consider adopting a more formulaic approach to licence revocation. Such an approach could involve the automatic revocation of a licence if certain types of offences have been committed and could also lead to the disqualification from reapplying for a licence for a set number of years.
- Q16. Do you have any further comments on the current regulatory and enforcement sanctions for licence holders and the processes by which they are administered?

## 6 Enhanced secure access to personal licence register

- 6.1 The Commission is committed to ensuring that the data we gather is done so for a specific purpose and that, subject to legal requirements, is available for wider use.
- 6.2 The Commission is aware that operators (in particular) have encouraged us to provide a personal identity or security card in addition to the existing paper licence for personal licence holders.
- 6.3 Such a card is not the Commission's preferred option for two reasons. Our current financial projections indicate that the costs incurred in the production of such a card and the ongoing resource required to replace lost or stolen cards would not be matched by fee income from licensees either currently or in future years. We do not plan to increase licence fees for PLs in the current fees review.
- 6.4 Secondly the Commission has identified a potential risk that the production of the card is taken, by default, to indicate the holder has a valid personal licence.
- 6.5 Our preferred option is to offer enhanced **secure** access for operators to our personal licence register (the access system would use security in line with those for regulatory returns). This would include access to an individual's date of birth and photograph (as submitted when applying for a licence or when requested during the licence maintenance process).

- 6.6** The Commission currently uses the photograph to ensure that the person applying for a licence is the same person from whom we received identity documents, and to check the identity of the individual employed with the image we hold, during compliance visits.
- 6.7** The Commission do not consider there to be any legal impediment to the introduction of such access and regard it to be potentially beneficial to both prospective licensed employees and employers alike.
- 6.8** This option remains subject to further work on both resource requirements and secure access systems. The timescale for its introduction will also be a matter for prioritisation in relation to other business needs.

## Consultation questions

- Q17 Do you consider the proposed enhancement to be of benefit?
- Q18 Do you consider the additional information to be disclosed to be appropriate?
- Q19 Do you have any further comments on the proposal?

## Appendix 1

### 1.2 Personal licences

#### **All casino, bingo, general and pool betting, betting intermediary, gaming machine general, gaming machine technical, gambling software and lottery managers licences except ancillary remote licences**

- (a) Subject to (e) and (f) below licensees must ensure:
- (i) that each individual who occupies one of the management offices specified in (b) below in or in respect of the licensee or in connection with the licensed activities holds a personal licence authorising the performance of the functions of that office (hereafter 'a personal management licence')
  - (ii) that at least one person occupies at least one of those offices.
- (b) The specified management offices are those offices (whether or not held by a director in the case of a licensee which is a company, a partner in the case of a licensee which is a partnership or an officer of the association in the case of a licensee which is an unincorporated association) the occupier of which is by virtue of the terms of their appointment responsible for:
- the overall management and direction of the licensee's business or affairs
  - the licensee's finance function as head of that function
  - the licensee's gambling regulatory compliance function as head of that function
  - the licensee's marketing function as head of that function
  - the licensee's information technology function as head of that function in so far as it relates to gambling-related information technology and software
  - oversight of the day to day management of the licensed activities at an identified number of premises licensed under Part 8 of the Act or across an identified geographical area
  - in the case of casino and bingo licences only, oversight of the day to day management of
  - single set of premises licensed under Part 8 of the Act.
- (c) Licensees must take all reasonable steps to ensure that anything done in the performance of the functions of a specified management office is done in accordance with the terms and conditions of the holder's personal management licence.

- (d) Where an individual is authorised by a personal licence and that licence comes under review under section 116(2) of the Act, the operating licensee must comply with any conditions subsequently imposed on that licence by the Commission about redeployment, supervision, or monitoring of the individual's work and any requirements of the Commission in respect of such matters applicable during the period of the review.
- (e) Paragraphs (a) to (d) above shall not apply to a licensee for so long as the licensee is a 'small-scale operator' as defined in the Gambling Act 2005 (Definition of Small-scale Operator) Regulations 2006 ('the Regulations')
- (f) During the period of 3 years commencing with the date on which a licensee ceases to be a small-scale operator paragraphs (a) to (e) above shall apply subject to the proviso that the phrase 'each individual' in paragraph (a)(i) shall not include any individual who was a 'qualified person' (as defined in the Regulations) in relation to the licensee 28 days immediately prior to the licensee ceasing to be a small-scale operator.

## APPENDIX 2: Gambling Act 2005

### SCHEDULE 7 - RELEVANT OFFENCES

#### Section 126

#### Part 1

#### The Offences

#### *Gambling offences*

#### 1. An offence under:

- (a) this Act
- (b) the Betting, Gaming and Lotteries Act 1963 (c 2)
- (c) the Gaming Act 1968 (c 65)
- (d) the Lotteries and Amusements Act 1976 (c 32)
- (e) the National Lottery etc Act 1993 (c 39) or
- (f) the National Lottery Act 1998 (c 22).

#### *Theft etc*

#### 2. An offence under any of the following provisions of the Theft Act 1968 (c 60):

- (a) section 1 (theft)
- (b) section 8 (robbery)
- (c) section 9 (burglary)
- (d) section 10 (aggravated burglary)
- (e) section 11 (theft from exhibition, etc)
- (f) section 12A (aggravated vehicle-taking)
- (g) section 13 (abstracting electricity)
- (h) section 15 (obtaining property by deception)
- (i) section 15A (obtaining money transfer by deception)
- (j) section 16 (obtaining pecuniary advantage by deception)
- (k) section 17 (false accounting)
- (l) section 19 (false statement by director, etc)
- (m) section 20 (suppression of document, etc)
- (n) section 21 (blackmail)
- (o) section 22 (handling stolen goods)
- (p) section 24A (retaining wrong credit) and
- (q) section 25 (going equipped for stealing, etc).

#### 3. An offence under section 1 or 2 of the Theft Act 1978 (c 31) (obtaining services, or evading liability, by deception).

3A. An offence under the Fraud Act 2006.

4. An offence under section 170 or 170B of the Customs and Excise Management Act 1979 (c 2) (evasion of duty).

5. An offence under section 58(1) of the Civic Government (Scotland) Act 1982 (c 45) (convicted thief in possession).

6. Both in England and Wales and in Scotland, the offence at common law of conspiracy to defraud.

7. In Scotland the offences at common law of:

- (a) theft
- (b) robbery
- (c) theft by housebreaking
- (d) fraud
- (e) extortion and
- (f) reset.

*Miscellaneous*

8. An offence listed in Part 2 of Schedule 15 to the Criminal Justice Act 2003 (specified sexual offences).

8A. An offence under any of the following provisions of the Sexual Offences Act 1956—

- (a) section 8 (intercourse with a defective);
- (b) section 12 (buggery); and
- (c) section 18 (fraudulent abduction of an heiress).

8B. An offence under section 3 of the Sexual Offences (Amendment) Act 2000 (abuse of trust).

9. An offence under the law of England and Wales which leads, or is intended to lead, to a person's death or to physical injury to a person.

9A. An offence of arson under section 1 of the Criminal Damage Act 1971 (destroying or damaging property).

10. An offence under:

- (a) the Firearms Act 1968 (c 27), or
- (b) the Firearms (Amendment) Act 1988 (c 45).

11. An offence under any of the following provisions of the Misuse of Drugs Act 1971 (c 38)—

- (a) section 4(2) (production),
- (b) section 4(3) (supply),
- (c) section 5(3) (possession with intent to supply), and
- (d) section 8 (permitting activity on premises).

12. An offence under the Forgery and Counterfeiting Act 1981 (c 45), except for sections 18 and 19 (reproduction and imitation notes and coins).

13. An offence under section 3 of the Private Security Industry Act 2001 (c 12) (unlicensed activity).

14A. An offence under section 42 of the Armed Forces Act 2006 as respects which the corresponding offence under the law of England and Wales (within the meaning given by that section) is an offence listed elsewhere in this Schedule.

15. An offence under section 70 of the Air Force Act 1955 (c. 19) in so far as it relates to an offence listed elsewhere in this Schedule.

16. An offence under section 42 of the Naval Discipline Act 1957 (c. 53) in so far as it relates to an offence listed elsewhere in this Schedule.

17. An offence under section 52 or 52A of the Civic Government (Scotland) Act 1982 (offences relating to indecent photographs of children).

18. An offence under any of the following provisions of the Criminal Law (Consolidation) (Scotland) Act 1995 (c 39):

- (a) section 1 (incest)
- (b) section 2 (intercourse with a stepchild)
- (c) section 3 (intercourse with child under 16 by person in position of trust)
- (d) section 5 (unlawful intercourse with a girl under 16)
- (e) section 6 (indecent behaviour towards girl between 12 and 16)
- (f) section 8 (detention of woman in brothel or other premises)
- (g) section 10 (person having parental responsibilities causing or encouraging sexual activity in relation to a girl under 16), and
- (h) section 13(5) (homosexual offences).

18A. An offence under either of the following provisions of the Mental Health (Scotland) Act 1984:

- (a) section 106 (protection of mentally handicapped females), and
- (b) section 107 (protection of patients).

18B. An offence under either of the following provisions of the Mental Health (Care and Treatment) (Scotland) Act 2003:

- (a) section 311 (non-consensual sexual acts), and
- (b) section 313 (persons providing care services: sexual offences).

18C. An offence under any of the following provisions of the Protection of Children and Prevention of Sexual Offences (Scotland) Act 200:

- (a) section 1 (meeting a child following certain preliminary contact),
- (b) section 9 (paying for sexual services of a child),
- (c) section 10 (causing or inciting provision by child of sexual services or child pornography), and
- (d) section 11 (controlling a child providing sexual services or involved in pornography).]

19. In Scotland, the offences at common law of:

- (a) rape
- (b) clandestine injury to women
- (c) abduction of a woman or girl with intent to rape or ravish
- (d) assault with intent to rape or ravish
- (e) indecent assault
- (f) lewd, indecent or libidinous behaviour or practices
- (g) shameless indecency
- (h) sodomy
- (i) murder
- (j) culpable homicide.
- (k) assault

- (l) wilful fireraising
- (m) culpable and reckless fireraising, and
- (n) bestiality.

20. In Scotland, the offence at common law of uttering and fraud.

21. An inchoate offence relating to an offence listed elsewhere in this Schedule.

22. A reference in this Part of this Schedule to an offence under an Act or a provision of an Act includes a reference to an offence under subordinate legislation made under that Act or provision.

22A. Section 48 of the Armed Forces Act 2006 (attempts, conspiracy, [encouragement and assistance] and aiding and abetting outside England and Wales) applies for the purposes of this Act as if the reference in subsection (3)(b) to any of the following provisions of that Act were a reference to any provision of this Act.]

## **Part 2**

### **Power to amend Part 1**

23 The Secretary of State may by order amend Part 1 of this Schedule so as to:

- (a) add an entry
- (b) vary an entry or
- (c) remove an entry.

## **8 Responding to this consultation**

**8.1** The Commission is inviting comments on the proposed scheme and would prefer respondents to complete the responses template provided and send it by email to: [consultation@gamblingcommission.gov.uk](mailto:consultation@gamblingcommission.gov.uk) . Further information and assistance is available from the Commission's consultation co-ordinator at the same email address. If you are not able to use the template provided, please indicate clearly the questions or issues to which your comments refer.

**8.2** Alternatively, responses can be sent by post to:  
Consultation coordinator  
Gambling Commission  
Victoria Square House  
Victoria Square  
Birmingham B2 4BP

**8.3** The closing date for receipt of responses by the Commission is 12 January 2012.

**8.4** When responding, please state whether you are responding as an individual or representing the views of an organisation. If responding on behalf of an organisation, please make clear who or what that organisation represents. If responding as an individual, please mention your own interest.

**8.5** Please note that responses may be made public or published in a summary of responses to the consultation unless you state clearly that you wish your response or name to be treated confidentially. Confidential responses will be included in any statistical summary of numbers of comments received. If you are replying by email or via the website, unless you specifically include a request to the contrary in the main text of your submission, the Commission will assume your consent overrides any confidentiality disclaimer that is generated by your organisation's IT system.

**8.6** Any information or material sent to us and which we record may be subject to the Freedom

of Information Act 2000 (FOIA). The Commission's policy on release of information is available on request or by reference to our website at [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk).

- 8.7** All information provided to the Commission will be processed in accordance with the Data Protection Act 1998. However, it may be disclosed to government departments/agencies, local authorities and other bodies when it is necessary to do so in order to carry out the functions of the Commission and where the Commission is legally required to do so.
- 8.8** All non-confidential responses will be published on our website. We will take full account of the responses when coming to a final view on a recommendation for future data collection. We will publish our response to submissions received as part of our explanation of the final view we have reached.

**Gambling Commission October 2011**

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## **Keeping gambling fair and safe for all**

For further information or to register your interest in the Commission please visit our website at: [\*\*www.gamblingcommission.gov.uk\*\*](http://www.gamblingcommission.gov.uk)

Copies of this document are available in alternative formats on request.

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