



# ***Gambling (Licensing and Advertising)*** **Bill Committee stage report**

**Bill No 8 2013-14**

**RESEARCH PAPER 13/68** 25 November 2013

This is a report on the House of Commons Committee Stage of the *Gambling (Licensing and Advertising)* Bill. It complements Research Paper 13/55 prepared for Commons second reading.

The Bill would amend the *Gambling Act 2005* and move the regulation of remote gambling from a 'point of supply' to a 'point of consumption' basis. The Government believes this will increase protection for British customers as well as enabling British-based operators to compete on an equal footing with other remote operators

The Bill was not amended in Public Bill Committee and will have its report and third reading on 26 November 2013.

John Woodhouse

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## Research Paper 13/68

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## **Contents**

	<b>Summary</b>	<b>1</b>
<b>1</b>	<b>Introduction</b>	<b>2</b>
<b>2</b>	<b>Second reading debate</b>	<b>2</b>
<b>3</b>	<b>Committee stage</b>	<b>3</b>
	3.1 Licensing of remote gambling	3
	3.2 Gambling advertising	4
	3.3 Spread betting and reporting suspicious betting activity	4
	3.4 Problem gambling	5
	3.5 Internet and financial transaction blocking	6
	3.6 Dormant accounts	6
	3.7 Horse race betting levy	7
	<b>Appendix 1 – Membership of the Committee</b>	<b>8</b>



## Summary

Under the *Gambling Act 2005*, an operating licence from the Gambling Commission is only required if at least one piece of remote gambling equipment is located in Great Britain. Remote gambling operators who locate all of their equipment offshore do not need a licence and are not subject to the regulatory supervision of the Commission, whether or not their remote gambling facilities are used by British customers. The 2005 Act does, however, prohibit overseas operators from advertising in Britain unless they are situated within the EEA (including Gibraltar), or in Antigua & Barbuda, the Isle of Man, or the States of Alderney and Tasmania (the “white listed” countries).

The *Gambling (Licensing and Advertising) Bill* is a short Bill that would amend the 2005 Act so that all remote gambling operators would be required to obtain a licence from the Gambling Commission to enable them to transact with British customers and advertise in Britain. The Government believes this will increase protection for British customers as remote operators would be subject to consistent regulation and required to:

- support action against illegal activity and corruption in sport
- contribute to research, education and treatment in relation to British problem gambling
- comply with licence conditions that protect children and vulnerable adults

Although Labour is supportive of the Bill, during Committee, the Shadow Minister for Sport, Clive Efford, tabled a number of new clauses on issues such as advertising, Internet Protocol (IP) and financial transaction blocking, problem gambling, spread betting, dormant betting accounts, and the horse race betting levy.

None of the new clauses were agreed to and the Bill was reported without amendment.

## 1 Introduction

The [Gambling \(Licensing and Advertising\) Bill](#) was introduced into the House of Commons on 9 May 2013 as Bill 8 of 2013-14 and had its second reading debate on 5 November 2013.<sup>1</sup> The Bill had four sessions in a Public Bill Committee between 12 and 19 November 2013. Its remaining stages will take place on 26 November 2013.

[Library research paper 13/55](#) (17 September 2013), prepared for the Bill's second reading, gives background and information to the Bill.

Further detail and documents relating to the Bill can be found on the [Bill's page](#) on the Parliament website.

The Bill has four substantive clauses and a fifth clause giving details of the Bill's territorial extent and commencement dates. Clauses 1 to 3 apply to Great Britain; clause 2(1) also extends to Northern Ireland. Clause 4 applies to Northern Ireland only. As gambling is a transferred matter, clauses 2(1) and 4 would require the consent of the Northern Ireland Assembly by way of a legislative consent motion.

## 2 Second reading debate

The Bill received its second reading on 5 November 2013. Clive Efford, Shadow Minister for Sport, said that he supported the Bill but was concerned about its details.<sup>2</sup> Mr Efford drew attention to some of the issues not covered in the Bill and that have arisen since the Gambling Act came into force in 2007:

...does the Bill include clauses to introduce financial penalties for companies that breach licensing codes? Does it set out detailed methods for enforcing compliance with new powers for the Gambling Commission? Does it require all licensed operators to display a kitemark to inform consumers that they are using a UK licensed online operator? Does it introduce a whole new set of penalties for operators who fail to report suspicious activities? Does it deal with betting advertising before the 9 pm watershed? Does it include requirements on operators to contribute to research on, and treatment of, gambling behaviour and problem gambling?

Does the Bill define what a betting shop should provide before it can advertise as such? Does it deal with unmanned betting shops providing self-service betting terminals? Does it create the framework for a single form of self-exclusion across the industry for those who need help with their gambling addiction? Does it deal with the anomaly of spread betting being regulated by the Financial Conduct Authority? Does it require every operator taking bets on horse racing from UK-based customers to contribute to a horse race betting levy? Does it require the betting industry to make some contribution to all sports from which it profits yet makes no contribution? Does it deal with the issue of dormant accounts, on which the Government promised to legislate?

The former Sports Minister Gerry Sutcliffe (Labour) similarly argued that "wider issues" should be looked at, "to put right some of the wrongs in the 2005 Act".<sup>3</sup> A number of other Members raised concerns about enforcing the Bill (David Nuttall, Chris Evans and Jim Shannon); casinos being able to offer online gambling (John Whittingdale, James Duddridge); problem gambling (Jim Shannon); the horse race betting levy (Gerry Sutcliffe, Laurence Robertson); and tax issues (Philip Davies, Paul Farrelly, and John Whittingdale).

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<sup>1</sup> [HC Deb 5 November 2013 cc125-76](#)

<sup>2</sup> [HC Deb 5 November 2013 c133](#)

<sup>3</sup> [HC Deb 5 November 2013 c144](#)

Although Helen Grant, the Minister for Sport, Tourism & Equalities, said the Government would not accept amendments on the issues raised by Mr Efford and other Members, and that the Bill was not the “appropriate vehicle”<sup>4</sup> for some of them (e.g. fixed odds betting terminals, casinos, the horse race betting levy), there was further debate in the Public Bill Committee after Mr Efford tabled a number of new clauses.

### 3 Committee stage

The Public Bill Committee had four sittings between 12 and 19 November 2013. At the first sitting, evidence was taken from representatives of the following organisations:

- Remote Gambling Association
- Gibraltar Betting and Gaming Association
- Sports Rights Owners Coalition
- British Horseracing Authority
- Sports Betting Group
- Sport and Recreation Alliance
- National Casino Forum

Officials from the Department for Culture, Media and Sport and the Gambling Commission gave evidence at the second session. In addition, evidence was given by representatives from the Salvation Army, Quaker Action on Alcohol and Drugs, Care, the Financial Conduct Authority, and Professor Jim Orford, Emeritus Professor of Clinical and Community Psychology, University of Birmingham.

Written submissions sent to the Committee are available from the [Parliament website](#).<sup>5</sup>

The remainder of this section of the paper summarises the main issues debated in Committee, none of which led to the Bill being amended.

#### 3.1 Licensing of remote gambling

During the clause stand part debate for clause 1 of the Bill, Clive Efford, the Shadow Minister for Sport, moved a new clause 2 which would require all licensed online gambling operators to display a kitemark on their promotional materials and websites, showing that they were licensed by the Gambling Commission.<sup>6</sup> Gerry Sutcliffe (Labour) spoke in favour of the new clause, arguing that it represented the “essence of the Bill’s whole purpose, which is consumer protection” and that requiring a kitemark would separate approved and non-approved websites.<sup>7</sup>

The Minister for Sport, Tourism and Equalities, Helen Grant, replied that the Gambling Commission was already working to ensure that consumers can quickly establish what an

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<sup>4</sup> HC Deb 5 November 2013 c175

<sup>5</sup> [House of Commons Public Bill Committee on the Gambling \(Licensing and Advertising\) Bill 2013-14](#)

<sup>6</sup> PBC Deb 19 November 2013 c74-5

<sup>7</sup> PBC Deb 19 November 2013 c75

operator was licensed for and that the Commission can do this through licence conditions and existing powers.<sup>8</sup> Mr Efford did not press new clause 2.

### **3.2 Gambling advertising**

During the clause stand part debate for clause 3 of the Bill, Clive Efford moved a new clause 14 which would require the Secretary of State to consult on the current regulatory position concerning advertising gambling before the nine o'clock watershed and to lay a report before the House no later than summer 2014.<sup>9</sup> Mr Efford observed that online bingo operators are now advertising before the watershed. He also said the national governing bodies of sport were concerned about the saturation of gambling advertising when sport is televised.<sup>10</sup>

Gerry Sutcliffe agreed that gambling advertising needed re-examining and that the watershed was inappropriate because different media platforms are now available and people can watch television at different times.<sup>11</sup>

Helen Grant acknowledged the growth in gambling advertising, but said there were high compliance rates with the current advertising codes. She pointed out that the Government was already exploring issues on gambling advertising with Ofcom, the Gambling Commission, and the Advertising Standards Authority, and that there was no firm evidence that gambling advertisements were jeopardising the licensing objectives of the 2005 Act. Mrs Grant also referred to Ofcom figures showing that over 84% of betting adverts are shown after 9pm, with nearly 60% shown after 11pm.<sup>12</sup> Mr Efford did not press new clause 14.

### **3.3 Spread betting and reporting suspicious betting activity**

Clive Efford moved new clauses (1, 4 and 13) on spread betting (currently regulated by the Financial Conduct Authority) and the reporting of suspicious activities in relation to sporting events:

New clause 1 covers the behaviour of betting organisations that are licensed by the Gambling Commission, but may operate in other jurisdictions, as well as operations such as spread betting that are not licensed by the Gambling Commission. It would allow the commission to consider any actions on the part of an operator that would have been a breach, had they happened under its jurisdiction, and thus to determine whether that operator is fit and proper to be licensed in the UK. It would therefore ensure that an operator could not operate at a lower standard elsewhere or become involved in serious malpractice, yet expect to be licensed in the UK.

New clause 4...refers to the transfer of responsibility for enforcing licence condition 15.1 on spread betting from the Financial Conduct Authority to the Gambling Commission. New clause 13 would require the Government to ensure that those who regulate online gambling are in regular dialogue with those who are directly affected: the sports governing bodies, which have a lot of intelligence about what is going on at grass-roots level.<sup>13</sup>

Mr Efford went on to further explain the purpose of his proposed new clauses:

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<sup>8</sup> PBC Deb 19 November 2013 c78

<sup>9</sup> PBC Deb 19 November 2013 c80

<sup>10</sup> PBC Deb 19 November 2013 c81

<sup>11</sup> PBC Deb 19 November 2013 c83

<sup>12</sup> PBC Deb 19 November 2013 cc84-5

<sup>13</sup> PBC Deb 19 November 2013 c89

If the exchange of information between the sport that is being gambled on and the operator is not seen and there is no requirement on that operator to share that sort of information, there has to be some concern. The sports themselves are worried about how open to that sort of corruption spread betting is. Licence condition 15.1 would require those online spread betting operators to inform the relevant sport if they detected any suspicious activity. At the moment, that is required by the Gambling Commission and it would be a requirement for all of the remote licensees under the new regime but it will not be a requirement on those who operate spread betting.<sup>14</sup>

James Duddridge (Conservative) queried the wording of new clauses 1 and 4 claiming, in particular, that new clause 4 would include all spread betting and not just spread betting on sports events.<sup>15</sup> Gerry Sutcliffe spoke in favour of the new clauses.<sup>16</sup>

In response, Helen Grant said she was satisfied that the current arrangements for information sharing between the Gambling Commission and Financial Conduct Authority (FCA) were working well; that the Government had no current plans to make the regulation of spread betting the responsibility of the Gambling Commission; that it was unwise to be prescriptive about the timing and manner of engagement between sports governing organisations and gambling's regulatory bodies; and that she would write to the FCA Minister about Mr Efford's concerns.<sup>17</sup>

Mr Efford pressed for a division on new clauses 1 and 4. Both were narrowly defeated.<sup>18</sup>

### 3.4 Problem gambling

One of the three licensing objectives underpinning the 2005 Act is the protection of children and other vulnerable people from being harmed or exploited by gambling.<sup>19</sup> A person affected by gambling can request that their custom be refused at a Gambling Commission licensed operator's premises; this is known as self-exclusion.<sup>20</sup>

Clive Efford tabled a new clause 9 requiring the Secretary of State to consult on a system of "standardised self-exclusion from the gambling industry".<sup>21</sup> Mr Efford noted that while a gambler could self-exclude from four of five high street betting shops in their local area, it was not possible to self-exclude online where there were hundreds of gambling sites; hence the need for a "one-stop shop system covering the whole industry and administered by the Gambling Commission".<sup>22</sup> Jim Shannon (DUP) also argued that an "online gambling one-stop shop for self-exclusion" was urgently needed.<sup>23</sup>

Helen Grant said that self-exclusion was a priority area for the Responsible Gambling Strategy Board (RGSB) and it was working closely with the Gambling Commission to improve the effectiveness of self-exclusion as a "harm minimisation tool". The Minister also referred to recent commitments from the gambling industry to develop more comprehensive

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<sup>14</sup> PBC Deb 19 November 2013 c91; licence condition 15.1 is set out in the Gambling Commission's [Licence conditions and codes of practice \(consolidated version\)](#), May 2012

<sup>15</sup> PBC Deb 19 November 2013 c91 and cc96-7

<sup>16</sup> PBC Deb 19 November 2013 cc97-8

<sup>17</sup> PBC Deb 19 November 2013 c100

<sup>18</sup> PBC Deb 19 November 2013 c102 and c124

<sup>19</sup> *Gambling Act 2005*, s1(c)

<sup>20</sup> Gambling Commission website: [What can I do if I am affected by gambling?](#) and [What is self-exclusion?](#) [accessed 25 November 2013]

<sup>21</sup> PBC Deb 19 November 2013 c105

<sup>22</sup> PBC Deb 19 November 2013 c110

<sup>23</sup> PBC Deb 19 November 2013 c117

self-exclusion arrangements and expected them to make “rapid progress” in delivering these commitments.<sup>24</sup>

Mr Efford pressed for a division on new clause 9; this was defeated by 10 votes to 7.<sup>25</sup>

A new clause 3 was tabled by Mr Efford. This would require remote gambling operators to pay a levy, imposed under section 123 of the 2005 Act, towards research, education and treatment into problem gambling.<sup>26</sup> Helen Grant replied that the current voluntary arrangements were revised only last year; that they were working; and that the Government had no plans to review them, but would continue to monitor their effectiveness.<sup>27</sup> The clause was not pressed to a vote.

Clive Efford also tabled a probing new clause 5 requiring the Secretary of State to conduct a review on the connection between non-paying gambling activities on social media and the use of licensed remote gambling operations.<sup>28</sup> Mr Efford said free playing on social media networks risked introducing young people to the habit of gambling, without experiencing losses.<sup>29</sup> In her response, Helen Grant said that the Secretary of State already had the power to conduct a review and that the Gambling Commission had started looking at the potential risks of social gambling on social media.<sup>30</sup>

### **3.5 Internet and financial transaction blocking**

On enforcing the Bill, Clive Efford tabled new clauses (6 and 7) on internet and financial transaction blocking for operators found to be in breach of their licences. A new clause 8 proposed a consultation on blocking measures and the sharing of best practice.<sup>31</sup> Mr Efford said there was “wide support” for enforcement measures and referred to a 2010 Ofcom report on using site blocking to reduce online copyright infringement.<sup>32</sup> According to Mr Efford, the report concluded that blocking could work if it was part of a basket of wider measures.<sup>33</sup> Jim Shannon also argued for financial transaction and Internet Protocol (IP) blocking as enforcement measures and noted that a number of western countries already use IP blocking.<sup>34</sup>

In response, Helen Grant said there was mixed evidence about the effectiveness of IP and financial transaction blocking although she would keep the issue under review. The Minister also noted that the Gambling Commission could already disrupt and stop unlawful gambling through existing enforcement mechanisms - such as taking action against third party carriers of unlawful advertising in Britain and prosecuting unlicensed overseas gambling operators, including in absentia.<sup>35</sup> Mr Efford did not press new clause 6 or 7.

### **3.6 Dormant accounts**

Clive Efford moved a new clause 11 which would require new and existing licensees to notify the Gambling Commission of money that they hold in dormant accounts or unclaimed

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<sup>24</sup> PBC Deb 19 November 2013 c120

<sup>25</sup> PBC Deb 19 November 2013 c134

<sup>26</sup> PBC Deb 19 November 2013 c105

<sup>27</sup> PBC Deb 19 November 2013 c119

<sup>28</sup> PBC Deb 19 November 2013 c105

<sup>29</sup> PBC Deb 19 November 2013 c109

<sup>30</sup> PBC Deb 19 November 2013 cc119-20

<sup>31</sup> PBC Deb 19 November 2013 c125

<sup>32</sup> PBC Deb 19 November 2013 c127

<sup>33</sup> PBC Deb 19 November 2013 c128

<sup>34</sup> PBC Deb 19 November 2013 cc129-30

<sup>35</sup> PBC Deb 19 November 2013 cc131-2

winnings.<sup>36</sup> Mr Efford said that the money in such accounts could be put into and treatment and research.<sup>37</sup> Gerry Sutcliffe agreed that the money could be used for research, education, treatment and grass-roots sport.<sup>38</sup>

Helen Grant replied that the Government would consider Don Foster's report<sup>39</sup> on unclaimed winnings after the Bill had been enacted; she also noted that there are already powers under the 2005 Act enabling specific conditions to be imposed on licences (such as the declaring of unclaimed winnings).<sup>40</sup>

Mr Efford withdrew the proposed new clause.<sup>41</sup>

### 3.7 Horse race betting levy

The horserace betting levy is a statutory levy, collected and distributed by the Horserace Betting Levy Board to support the horse racing industry. The betting industry gives a portion of its profits to the levy which is agreed annually. Offshore based remote gambling operators are not liable to pay the levy.

Clive Efford moved new clauses (15 and 16) which would extend liability to pay the levy to offshore bookmakers who hold a Gambling Commission licence.<sup>42</sup> Mr Efford said that the move by many betting operators to an offshore location for their remote gambling arms had been the main contributory factor in the decline of the levy.<sup>43</sup> He noted that the Bill makes no provisions for racing or the levy and that racing would not receive any return from remote betting activity when it is licensed by the Gambling Commission.<sup>44</sup>

Helen Grant said the Government would not accept the new clauses, arguing that the levy in its current form is over 50 years old, doesn't reflect the modern betting industry, and that "genuine levy reform" should involve wide consultation to find a "sustainable, enforceable and legally sound" option.<sup>45</sup>

Mr Efford expressed disappointment at the Minister's approach and pressed for a division on new clauses 15 and 16.<sup>46</sup> Both were defeated by ten votes to three.<sup>47</sup>

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<sup>36</sup> PBC Deb 19 November 2013 c125

<sup>37</sup> PBC Deb 19 November 2013 c126

<sup>38</sup> PBC Deb 19 November 2013 c129

<sup>39</sup> Department for Culture, Media and Sport, [The use of dormant betting accounts and unclaimed winnings: a report by Don Foster](#), December 2010

<sup>40</sup> PBC Deb 19 November 2013 c133

<sup>41</sup> PBC Deb 19 November 2013 c134

<sup>42</sup> PBC Deb 19 November 2013 c134-5

<sup>43</sup> PBC Deb 19 November 2013 c136

<sup>44</sup> PBC Deb 19 November 2013 c139

<sup>45</sup> PBC Deb 19 November 2013 c141

<sup>46</sup> PBC Deb 19 November 2013 c142

<sup>47</sup> PBC Deb 19 November 2013 c143

## **Appendix 1 – Membership of the Committee**

**Chairs:** Hywel Williams and Mr Peter Bone

**Members:**

Karen Bradley (Con)  
Angie Bray (Con)  
James Duddridge (Con)  
Clive Efford (Lab, Shadow Minister for Sport)  
Paul Farrelly (Lab)  
Mrs Helen Grant (Con, Minister for Sport, Tourism & Equalities)  
Mrs Siân C. James (Lab)  
Graham Jones (Lab)  
Kwasi Kwarteng (Con)  
Mr John Leech (LD)  
Mary Macleod (Con)  
Graeme Morrice (Lab)  
David Morris (Con)  
Laura Sandys (Con)  
Jim Shannon (DUP)  
Nick Smith (Lab)  
Mr Gerry Sutcliffe (Lab)  
Mike Weatherley (Con)  
Simon Wright (LD)

**Committee Clerk:** Neil Caulfield