

A consultation on changes to provisions governing the availability of entitlements to gaming machines at premises selling alcohol at airports

IA No: DCMS037

Lead department or agency:

Department for Culture, Media and Sport

Other departments or agencies:

N/A

Impact Assessment (IA)

Date: 07/10/2011

Stage: Development/Options

Source of intervention: Domestic

Type of measure: Other

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Summary: Intervention and Options

RPC: AMBER

Cost of Preferred (or more likely) Option

Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Measure qualifies as One-Out?	
£4.0m	£2.6	£0.3m	Yes	Out

What is the problem under consideration? Why is government intervention necessary?

The Gambling Act 2005 makes provision for gambling entitlements for premises with an on-premises alcohol licence (or relevant Scottish licence), including offering category C and D gaming machines. Under s.173 of the Licensing Act 2003 and s.124 of the Licensing (Scotland) Act 2005 an activity such as the supply of alcohol is not a licensable activity where it takes place at an "examination station" of a designated airport. As a result, a bar that is located beyond the security checkpoints at designated airports (an "airside bar") cannot hold an on-premises alcohol licence (or Scottish equivalent) and therefore cannot benefit from the gambling entitlements set out in the Gambling Act. This restriction was unintentional.

What are the policy objectives and the intended effects?

To amend the Gambling Act 2005 so as to clarify and rectify the interaction between the Licensing Act 2003 and Gambling Act with the result that, pursuant to section 278 of the Gambling Act, the gambling entitlements contained in sections 282 and 283 of the Gambling Act will in future apply to places designated under section 173(1)(d) of the Licensing Act and section 124(1)(a) of the Licensing (Scotland) Act 2005. This will allow airside bars to make use of these gambling entitlements legally and remove the risk to operators of criminal sanctions under the Gambling Act.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

1) Do nothing:
 2) Introduce proposals to amend the Gambling Act by means of a Legislative Reform Order (LRO);
 Prior to the Licensing Act 2003 and the Gambling Act 2005 it was lawful for airside bars to make gaming machines available for use. It was never the intention of either Act to make this unlawful. The issue was not picked up during the passage of either Bill through Parliament. The 'do nothing' option is not viable since it would perpetuate the restriction and render operators liable to criminal sanctions for offering gambling entitlements that were legal under the previous licensing regimes. The Government therefore proposes to introduce a technical amendment by means of a LRO under sections 1(3)(c) and (d) of the Legislative and Regulatory Reform Act 2006 to amend the Gambling Act.

Will the policy be reviewed? It will not be reviewed. If applicable, set review date: N/A

Does implementation go beyond minimum EU requirements?			N/A		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	Micro Yes	< 20 Yes	Small Yes	Medium Yes	Large Yes
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)			Traded: N/A	Non-traded: N/A	

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:

John Howze

Date: 15th December 2011

Summary: Analysis & Evidence

Preferred Option

Introduce proposals to amend the Gambling Act by means of a Legislative Reform Order (LRO);

FULL ECONOMIC ASSESSMENT

Price Base Year 2009	PV Base Year 2011	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: £2.8	High: £6.3m	Best Estimate: £4.0m

COSTS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	£0.0m	1	£0.3m	£2.6m
High	£0.3m		£0.6m	£5.6m
Best Estimate	£0.1m		£0.4m	£3.9m

Description and scale of key monetised costs by 'main affected groups'

It is estimated that 17 airside bars would make category C gaming machines available under their automatic entitlement and that 2 of these airside bars would also use their additional allowance. These businesses would pay to licensing authorities a notification fee of £50 for the automatic entitlement of 2 machines or £150, plus an annual fee of £50, if they wish to offer 3 or more machines. The costs of new gaming machines (including life-cycle replacement), installation and running costs, and administration costs of notification are based on estimates obtained from the Gambling Commission. As HM Treasury is not yet in a position to announce the rates for the new Machine Games Duty, current AMLD rates have been used to calculate taxation costs. Business administration costs of AMLD compliance are based on estimates from HM Treasury. Consumer costs of playing gaming machines have been measured as the expected revenue stream from gaming machines, with estimates provided by the British Beer and Pub Association.

Other key non-monetised costs by 'main affected groups'

There will be an administrative burden on central and local government for processing AMLD and notifications respectively. These administrative burdens are expected to be small given that only a very small number of airside bars are expected to take up the entitlement, and the administration machinery is already in place.

BENEFITS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	£0.0m	1	£0.6m	£5.4m
High	£0.0m		£1.4m	£11.8m
Best Estimate	£0.0m		£0.9m	£7.9m

Description and scale of key monetised benefits by 'main affected groups'

Operators of airside bars should benefit from revenue generated by gaming machines in the same way as operators of other alcohol licensed premises. The estimates for potential revenue are based on figures obtained from the British Beer and Pub Association relating to revenue generated by category C machines on alcohol licenced premises. Consumers gain a welfare benefit from the enjoyment of using gaming machines. This is measured by their willingness to pay expressed in potential revenue streams, and the consumer surplus derived from elasticities taken from a review of the empirical literature. The exchequer benefits from notification fees (local government) and AMLD revenues (central government).

Other key non-monetised benefits by 'main affected groups'

N/A

Key assumptions/sensitivities/risks	Discount rate (%)	3.5%
<p>Uncertainty in economic assumptions is tested with sensitivity analysis, using expert advice on ranges for inputs where available and applying 20% sensitivity on the best estimate in other cases. This is reflected in the "low" and "high" estimates presented. The proposal does not pose a risk to the licensing objectives of the Gambling Act 2005. The concerns addressed by the objectives are no greater in airside areas of airports than elsewhere and are arguably lessened by the heightened security in these areas, the limited time available to members of the public to use the gaming machines and the likelihood that young and other vulnerable people are accompanied.</p>		

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: £0.1m	Benefits: £0.4m	Net: £0.3m	Yes	Out

Evidence Base (for summary sheets)

Background

1. All commercial gambling in Great Britain (with the exception of spread betting and the National Lottery) is regulated through the Gambling Act 2005 (the Gambling Act), including gaming machines and all types of venues licensed to offer gaming machines. Under the Act these machines are defined by categories depending on the maximum stake and prize available as described in Table 1.

Table 1: Machine categories, stakes, and prizes

Machine category	Maximum stake	Maximum prize
A	Unlimited	Unlimited
B1	£2	£4,000
B2	£100	£500
B3	£2	£500
B3A	£1	£500
B4	£1	£250
C	£1	£70
D non-money prize (other than crane grab machines)	30p	£8
D non-money prize (crane grab machines)	£1	£50
D money prize	10p	£5
D combined money and non-money prize (not coin pusher or penny falls machines)	10p	£8 (of which no more than £5 may be a money prize)
D combined money and non-money prize (coin pusher or penny falls machine)	10p	£15 (no more than £8 of which can be money prize)

2. Sections 278 to 284 of the Gambling Act apply to premises with a licence to supply alcohol for consumption on the premises, and contain provisions authorising specified gambling activities on such premises. Under these provisions, pubs and similar establishments may make available for use a limited number of the lower two categories (C and D) of gaming machines. They may also provide certain gaming facilities subject to various restrictions.
3. Section 278 of the Gambling Act provides that sections 279 to 284 apply to premises that satisfy three conditions:
 - An on-premises alcohol licence or relevant Scottish licence must have effect in respect of the premises;
 - The premises must contain a bar at which alcohol is served for consumption on the premises (without a requirement that alcohol is served only with food); and
 - The provisions are to apply only at times when alcohol may be supplied in reliance on the alcohol licence or sold for consumption on the premises in reliance on the relevant Scottish licence.
4. An 'on-premises alcohol licence' is a premises licence under Part 3 of the Licensing Act 2003 (the Licensing Act) which authorises the supply of alcohol for consumption on the licensed premises. A relevant Scottish licence is a premises licence issued under the Licensing (Scotland) Act 2005 other than one which only authorises the sale of alcohol for consumption off the premises.
5. The provisions authorising gambling activities in pubs are sections 279, 282 and 283 of the Gambling Act. Each of these provides a separate gambling entitlement:

Exempt Gaming Provisions

6. Section 279 permits alcohol licensed premises to offer equal chance gaming (such as bingo, poker or other card games in which all the players have an equal chance of winning), subject to the conditions and restrictions set out in sections 279, 280 and 281.

Automatic entitlement to gaming machines

7. Under section 282, a maximum of two gaming machines, which may be any mix of Category C or D, may be made available for use on alcohol licensed premises so long as the holder of the alcohol licence notifies the licensing authority of his intention to do so, pays the prescribed fee (currently £50) and complies with the relevant code of practice issued by the Gambling Commission. This provision operates by disapplying the offences under sections 37 and 242 of the Gambling Act, and is referred to as an 'automatic entitlement'.

Licensed premises gaming machine permit

8. Under section 283, gaming machines, which may be any mix of Category C or D, may be made available (in addition to the two machines authorised under section 282) for use in alcohol licensed premises in accordance with a licensed premises gaming machine permit (a "pub permit"). A pub permit must be sought by alcohol licensed premises wishing to exceed their automatic entitlement to two machines; the permit is issued by the relevant licensing authority, which has discretion to specify the category (this must be category C or D or both) and the number of gaming machines that an alcohol licensed premises may operate. An application fee of £100 is payable by an existing operator and £150 in all other cases. An annual fee of £50 is payable thereafter. Procedures and rules for administering pub permits are contained in Schedule 13 to the Gambling Act (in respect of England and Wales) and in the Licensed Premises Gaming Machine Permits (Scotland) Regulations 2007 (SSI 2007/505) (in respect of Scotland). It should be noted that the position in Scotland parallels that in England and Wales: identical problems have arisen from the relationship between the Licensing (Scotland) Act 2005 and the Gambling Act.
9. As a result of section 278 of the Gambling Act, the provisions in sections 279, 282 and 283 only apply to premises that hold an alcohol licence under Part 3 of the Licensing Act or the Scottish equivalent. Section 173 of the Licensing Act (for England and Wales) and section 124 of the Licensing (Scotland) Act 2005 (for Scotland) prevent activities which would normally require a licence (that is, the sale and supply of alcohol) from being licensable if they are carried on at specified premises. One of these types of premises is 'an examination station at a designated airport' (section 173(1)(d)).
10. In England and Wales the following airports are designated for the purposes of section 173(1)(d) and 173(4) of the Licensing Act: Birmingham, Bournemouth, Bristol, Cardiff, Coventry, Exeter, Humberside, Leeds-Bradford, Liverpool John Lennon, London City, London-Gatwick, London-Heathrow, London-Stansted, London-Luton, Manchester, Manston, Newcastle, Norwich, Nottingham East Midlands, Sheffield City, Southampton, Southend and Teesside (see the Airports Licensing (Liquor) Order 2005, SI 2005/1733).
11. In Scotland the following airports are designated under the Licensing (Designated Airports)(Scotland) Order 2007 (SSI 2007/97): Aberdeen, Edinburgh, Glasgow, Glasgow Prestwick, Inverness and Sumburgh.
12. An 'examination station' has the meaning given in section 22A of the Customs and Excise Management Act 1979. Broadly speaking, the examination station of a designated airport is known colloquially as the 'airside' area of an airport – i.e. that part of the airport beyond the security checks (which also includes the departure lounge and 'duty free').
13. The Government has investigated in respect of England and Wales, and Scotland, how many airports are currently affected; i.e. have bars on the airside and so cannot obtain an alcohol licence as a result of section 173 of the Licensing Act and section 124 of the Licensing (Scotland) Act 2005. At present it is estimated that there are 66 premises that cannot satisfy the conditions under section 278(1)(a) to (c) of the Gambling Act (that require such premises to hold an alcohol licence) and so cannot make use of the gambling entitlements under the Gambling Act, should they wish to do so.

The problem under consideration

14. The Gambling Act came fully into force on 1st September 2007. Before that date, the Gaming Act 1968 provided a similar scheme for authorising gambling in pubs and bars, with the same requirement that the premises should have an alcohol licence. Before the relevant provisions in section 173 of the Licensing Act came into force, there was a similar exemption under the Licensing Act 1964 for examination stations at designated airports. However, instead of making the whole activity 'non-licensable' (thereby preventing airside bars from obtaining an alcohol licence) the provision in the 1964 Act operated by disapplying the general ban on the sale and supply of alcohol, and thus not requiring airside bars to hold a licence.
15. However, under the old licensing legislation, an airside pub or bar could obtain an alcohol licence and thereby satisfy the relevant requirement under gambling legislation. Neither the Licensing Act or Gambling Act (nor transitional provisions made under either Act) enable pubs or bars in examination stations at designated airports to continue to make use of these entitlements.

Rationale for intervention

16. This situation was unintentional, and the issue appears not to have been identified during the drafting and passage of the Licensing and Gambling Bills. It has never been the Government's policy to prevent airside bars from continuing to make gaming machines available for use, nor does it appear to have been the intention of Parliament particularly as it was previously lawful to make similar types of gaming machines available for use and there was no regulatory purpose for a change to this position.
17. The present situation leaves those who operate an airside bar potentially open to criminal sanction. Therefore, the Government intends to clarify and rectify the interaction between the Licensing Act and Gambling Act so that the gambling entitlements under the Gambling Act will apply to airside bars and that the corresponding criminal sanction is removed.
18. Under the provisions of the Gambling Act licensing authorities could require airside bars to turn off their gaming machines or remove them from the premises. The persons responsible could be prosecuted for offences and subject to penalties. Given the background to this situation the Government is of the opinion that any active enforcement response by local authorities would appear to be disproportionate and unnecessary.

Policy objective

19. The Government proposes to amend, where appropriate, sections 278 to 284, 310 and Schedule 13 of the Gambling Act with the aim of applying the gaming machine entitlements under sections 282 and 283 to airside bars.
20. The Government is currently of the view that any amendment to the relevant provisions of the Gambling Act should only affect the gaming machine entitlements in sections 282 and 283. There does not appear to be any need to enable airside bars to make use of the exempt gaming provisions under section 279 due to the transitory nature of airport departure areas. The Government is not aware of any airside bar currently providing games of equal chance but it will ascertain whether this definitely the case through the public consultation.
21. As described above, section 173 of the Licensing Act (for England and Wales) and section 124 of the Licensing (Scotland) Act 2005 (for Scotland) prevent activities which would normally require a licence (that is, the sale and supply of alcohol) from being licensable if they are carried on at specified premises. In addition to examination stations at certain designated airports a range of other types of premises are described:
 - aboard an aircraft, hovercraft or railway vehicle engaged on a journey
 - aboard a vessel engaged on an international journey
 - at an approved wharf at a designated port or hoverport
 - at a royal palace
 - at premises which, at the time when the activity is carried on, are permanently or temporarily occupied for the purposes of the armed forces of the Crown

- at premises in respect of which a certificate issued under section 174 of the Licensing Act has effect
 - at such other place as may be prescribed.
22. The Government has considered whether it might be appropriate to widen the scope of its proposal to cover the other types of premises included in section 173 of the Licensing Act and section 124 of the Licensing (Scotland) Act. In its view only approved wharves at ports and hoverports might, in theory, find themselves in a similar position to that of airside bars. Approved wharves do not to the Government's knowledge make gambling facilities available at the present time, but it is possible they may wish to do so in the future. Therefore, as part of the public consultation the Government is seeking views on whether approved wharves ought to be included in these provisions as a future-proofing measure in order to avoid the need for further legislative reform.
23. With regards to other types of premises listed under section 173 of the Licensing Act:
- Section 278 of the Gambling Act expressly excludes trains, aircraft and other vehicles from the automatic gambling entitlement and pub permit provisions. They are therefore not relevant for the purposes of this consultation;
 - Section 359 of the Gambling Act has the effect of excluding all vessels on journeys taking them into international waters from criminal offence provisions in various parts of the Act. It is therefore not necessary or appropriate to consider them as part of the consultation;
 - The Royal Household and Historic Royal Palaces have confirmed previously that they have no pubs or bars and, even if they did, they did not envisage that gaming machines and/or playing games of equal chance would be made available for use;
 - Section 354 of the Gambling Act states that the Act does not have any effect in relation to any activity undertaken on premises occupied by the armed forces;
 - No other places have been prescribed for the purposes of section 173(1)(h) of the Licensing Act.

Options under consideration

24. The Government has considered two options in respect of this issue:

- Do nothing;
- Introduce proposals to amend the Gambling Act by means of a Legislative Reform Order (LRO);

Option 1: Do Nothing

25. Although this option would involve perpetuating a discrepancy between airside bars and other similar premises in Great Britain which hold an on-premise licence or relevant Scottish licence, the discrepancy would be extremely limited in its impact. Research shows that only 66 premises located airside of the security check at airports would likely be affected. This situation has continued since 2007 and the Government is not aware of any licensing authority having taken any enforcement action in respect of an airside bar offering gaming machines.
26. However, the fact remains that the discrepancy which has arisen between the regulatory treatment of airside bars compared with pubs and bars elsewhere in Britain was unintentional. It was never the Government's policy to prevent airside bars from continuing to make gaming machines available for use, nor does it appear to have been the intention of Parliament particularly as it was previously lawful to do so. There was no regulatory purpose for a change to the current position.
27. Gaming machines can be a significant source of income for pubs and bars. In the case of airside bars however, continued compliance with the current legislation represents the loss of a financial benefit. Although there are no actual costs imposed on airside bars whilst they are prohibited from making gaming machines available (other than the potential sanction of a fine or imprisonment for committing an offence), they would still suffer a loss of profit if a ban was invoked. The existing illegality also serves as a potential disincentive to any new airside bars to introduce gambling facilities in the form of gaming machines.
28. More significantly, the current situation means that any airside bar which chooses to offer gambling facilities in the same way as other premises with an on-premises licence might face a real risk of criminal sanctions. The ongoing potential for the imposition of criminal sanctions on those operating

such airside bars is a substantial burden that is inconsistent with the policy intention behind the Gambling Act and out of line with premises located elsewhere in Great Britain.

29. If they were to apply the strict letter of the law, licensing authorities would have to prosecute any airside bar which chose to offer gaming machines on its premises. Given the background to this situation and the absence of any knowledge about gambling related problems in such premises, any active enforcement response by local authorities would appear to be disproportionate and unnecessary. Nevertheless, the potential illegality is undesirable and continuation of the *status quo* would be difficult to justify.

Option 2: Introduce proposals to amend the Gambling Act by means of a Legislative Reform Order (LRO)

30. The Government proposes to use the power in section 1 of the Legislative and Regulatory Reform Act 2006 ("LRRRA") 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. One of the aims of an LRO is to provide a legislative mechanism for turning the aims of better regulation into reality for end-users. To this end, some of the key features under the LRRRA for making an LRO are:
- Removing or reducing a burden resulting from legislation: A 'burden' is defined 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;
 - Focusing on the removal and reduction of burdens and so ensuring the LRO is outcome focused; and
 - Comparing the position before and after the LRO has been made, ensuring that there is a person or business for whom the burden or the overall burdens will have been removed or reduced.
31. In all these respects, the Government believes that its proposal to amend, where appropriate, sections 278 to 284, 310 and Schedule 13 of the Gambling Act is suitable for an LRO under section 1 of the LRRRA.
32. As described above, gaming machines can be a significant source of income for pubs and bars and in the case of airside bars compliance with the current legislation represents the loss of a financial benefit. In addition, the existing illegality also serves as a potential disincentive to any newly established airside bars to introduce gambling facilities. This proposal would also remove the criminal sanction in respect of those airside bars which might choose to offer gambling facilities, bringing them into with premises located elsewhere in Great Britain.
33. The Government has considered other options and it is satisfied that the policy objective of the proposed LRO cannot be satisfactorily achieved through non-legislative means. The current legal position regarding airside bars is unambiguous and does not leave any scope for an alternative interpretation. It is brought about by the interaction of the Licensing Act and the Licensing (Scotland) Act 2005 with the Gambling Act, which can only be modified by legislation. To this end, the LRO is outcome focused by removing a regulatory burden and would not prevent any person or business from continuing to exercise any right or freedom that that person or business might reasonably expect to continue to exercise. It would also remove the criminal sanctions in sections 37 and 242 of the Gambling Act for airside bars.

Cost/Benefit Analysis

34. The options under consideration have been subjected to economic appraisal by applying HM Treasury Green Book guidance to calculate the economic costs and the economic benefits of intervention. The net cost of the intervention is presented, and the distribution of these costs and benefits between key groups in society is considered. The regulatory burden of the policy is a key consideration, and there is a discussion of the "One-In-One-Out" position of the intervention.

Do nothing option

35. Continuing not to allow airside bars to make use of these gambling entitlements has no costs or benefits associated with it, aside from the very small administrative burden associated with enforcing the law as it stands. This burden is small because the appropriate enforcement measures are already in place to counter illegal provision of gaming facilities, and this would only have to be minimally extended to cover airside bars. This option would, however, continue to restrict the

business opportunities of airside bars to provide gaming machines on their premises in the same way that ordinary bars are able to. There are thus a range of potential benefits, and associated costs, that bars are unable to enjoy. These potential net benefits are assessed in an analysis of the preferred option which would give airside bars the option to have gaming machines on their premises. The rest of the cost benefit section focuses on appraising the economic benefits and the economic costs of the preferred option against an assumed zero impact baseline of the “do nothing” option.

Preferred option impact on airside bars

36. In order to monetise costs and benefits it is necessary to have an understanding of how many airside bars the preferred option would have an impact on. It is important to emphasise that in making this legislative amendment nothing is being forced onto airside bars – changing the legislation simply gives them the option to introduce gaming machines. If no bars elected to provide gaming machines, the preferred option collapses back into the do nothing option with no benefits or costs. This is, however, unlikely as evidence suggests that some airside bars will choose to provide gaming machines. This section sets out how many airside bars are likely to provide gaming machines under the preferred option, as a prerequisite for assessing economic benefits and economic costs.
37. UK passenger airports in scope of the Impact Assessment are defined in paragraphs 10-11. Each of the airports were surveyed for airside bars by inspecting their official websites. This was done by checking websites for information on their facilities “after security” that contained the trigger words “bar”, “licensed” or “alcohol” in the description¹. This showed a total of 66 airside bars across 29 airports, with some larger airports having more than one airside bar and other smaller airports having no airside bars.
38. Not all airside bars in the population will necessarily want gaming machines if, for example, they do not believe that this service will encourage patrons into their venue. This issue is addressed through a survey that was conducted by DCMS in March 2008 shortly after the Gambling Act was implemented in 2007 and when the legislative issue concerning airside bars was first recognised, this questioned a sample of local authorities on whether airports within their jurisdiction had airside bars that were providing gaming machines. The survey showed that out of 38 sampled premises, 10 bars contained a total of 21 gaming machines. Of the total number of gaming machines found, 19 were provided within the automatic entitlement. Only one bar made use of the additional allowance, with an extra 2 gaming machines.
39. The results of this survey therefore provide an indication of what proportion of airside bars are likely to take up gaming machines once the legislative amendment in the preferred option has been put in place. Scaling up the results of the survey to represent the total of 66 airside bars allows the estimation of the impact of the preferred option. These results suggest that 17 airside bars would use their automatic entitlement to use a total of 33 gaming machines, and 2 of these airside bars would use their additional allowance to use a total of 3 further gaming machines.

Proportionality

40. The evidence base developed in Impact Assessments should be proportional to the impact of the intervention being made. The assessment of the number of airside bars that are likely to be impacted by the preferred option is very small. Moreover, given that the preferred option involves a legislative amendment to correct an oversight in the Gambling Act the level of interest surrounding the policy and the degree to which the policy is novel are both low. This suggests that a relatively “light touch” IA is required in this case. That said benefits and costs of the preferred option have been identified and monetised wherever possible. The methodology used and the results presented are discussed in the sections below.

Benefits of the preferred option

41. Consumers that attend airside bars which provide gaming machines will be able to enjoy these facilities, providing consumer satisfaction. This is measured by estimating the amount that consumers are willing to pay for this service, and then calculating the consumer surplus that is

¹ The search was conducted in a series of steps. First, the legislative list of UK airports defined in paragraphs 10-11 were cross checked to Civil Aviation Authority (CAA) statistics on passenger throughput. This revealed that one airport, Coventry, was not active in 2010. It was concluded that Coventry would have no airside bars. Second, the official website was found by searching for “x name of airport x” through Google. Third, information on facilities was reviewed with venues being recorded as an airside bar when they were defined as “after security” and included the words “bar”, “licensed” or “alcohol” in the description. On this basis 66 airside bars were identified.

derived from this level of consumption. The amount consumers are willing to pay equates to the revenue stream of the gaming machine, net of any payment of winnings made. This has been estimated on advice provided by the British Beer and Pub Association (BBPA) about the average revenue that a Category C gaming machine located in premises with an alcohol licence can expect to earn², combined with the estimate of gaming machines described in paragraph 38. The consumer surplus is measured using elasticities taken from a survey of gaming machine empirical studies surveyed by ACIL Tasman (2006)³, and assumption that revenue stream equates directly to the number of plays since the maximum stake limit is set at £1 for this class of gaming machines.

42. The increase in revenue stream that is anticipated is of course also the benefit that airside bar businesses will realise from providing gaming machines. This is the same as the consumer willingness to pay benefit calculated above.
43. The exchequer will be likely to receive increased tax revenues from airside bars providing gaming machines. There is a one-off notification fee payable at the rate of £50 per bar to make use of the automatic entitlement of two gaming machines per venue. Where a venue wants to use an additional allowance to provide more gaming machines, it is required to pay an additional one-off notification fee of £150 and an annual notification fee of £50 in subsequent years. There is also taxation levied directly on gaming machines, in the form of the Amusement Machines Licensing Duty (AMLDD), which payable at a rate of £905 per annum⁴.
44. The central estimate for the present value of these benefits when discounted at 3.5% is shown in Table 2.

Table 2: Preferred option benefit estimates

Description of benefit	Size of benefit / £k
Consumer willingness to pay	3,265
Consumer surplus	1,088
Business revenues	3,265
Exchequer (local) notification revenues	2
Exchequer (central) AMLDD revenues	284

45. This puts the central estimate of present value benefit of £7.9m. This estimate is sensitive to assumptions that have been made in the analysis. Where assumptions are uncertain they have been subjected to sensitivity analysis, with high and low estimates deviating from the central estimate by expert opinion on plausible range where available and a standard 20% deviation where reliable upper and lower bounds are not available. This gives a present value benefit range of £5.4m-£11.8m.

Costs of preferred option

46. Consumers have to pay to enjoy the benefits of the gaming machines provided by airside bars. This cost is equivalent to the estimate of willingness to pay described above in paragraph 40.
47. Airside bar businesses incur a number of costs if they are to enjoy the revenue increasing benefits of gaming machines. There are the transitional costs of purchasing and installing machines. These are paid in year one only and have been estimated on advice from the Gambling Commission. Notification fees are predominantly a transition cost, although there is a small annual charge for use of the additional allowance. Then there are reoccurring annual maintenance and running costs, as well as AMLDD that need to be paid each year across the appraisal period. Both the notification fee and the AMLDD are equivalent to the exchequer benefits described above in paragraph 43. described above There will be an administrative burden associated with notification and ensuring that AMLDD is submitted correctly. The notification administration burden has been quantified using estimates

² The BBPA advise that where premises with an alcohol licence opt to offer gaming machines then it is likely they will offer Category C machines (£1 maximum stake, £70 maximum prize) rather than Category D as these are more popular with adult players and thus more lucrative in terms of revenue generation.

³ ACIL Tasman (2006), "The economic impact of gambling on the northern territory", surveys the literature surrounding the elasticity of demand for gaming machines. This gives a range of elasticities from -0.8 to -1.9 (applied for the high-low sensitivity analysis) from which a central estimate of -1.5 was drawn. This allowed the calculation of the consumer surplus under the assumption of a linear demand schedule and the "rule of a half". The consumer surplus is defined as the difference between the actual price of the product and the price that the consumer would have been willing to pay for it; it measures the consumer welfare gain from consumption of a product.

⁴ HM Treasury will replace the current AMLDD system with a new Machine Games Duty (MGD) in 2013. As the final duty rates will not be announced until Budget 2012 AMLDD has been used as an indicative measure of the impact of the policy on the exchequer across the appraisal period.

provided by the Gambling Commission and the AMLD administration burden is based on estimates used in a recent HM Treasury Games Machine Duty consultation document⁵.

48. The exchequer, at both local government and central government levels, might incur some very small costs in terms of administrative burden as they collect increased from notification returns (local) and AMLD returns (central). Since the infrastructure is already in place to collect these monies, and there is likely to be only a very small increase in the number of gaming machines as a result of the preferred option, these costs are anticipated to be extremely small and have not been quantified.
49. The central estimate for the present value of these costs when discounted at 3.5% is shown below in Table 3.

Table 3: Preferred option cost estimates

Description of cost	Size of cost / £k
Consumer costs	3,265
Business cost of new machines	256
Business installation costs	4
Business notification fees	2
Business notification fees administration	1
Business running costs	113
Business AMLD duties	284
Business AMLD duties administration	3

This puts the central estimate of present value costs of £3.9m. This estimate is sensitive to assumptions that have been made in the analysis. Where assumptions are uncertain they have been subjected to sensitivity analysis, with high and low estimates deviating from the central estimate by upper and lower estimates where available, and a standard 20% deviation where reliable upper and lower bounds are not available. This gives a present value benefit range of £2.6m-£5.6m

Net present value

50. The net present value (NPV) of the preferred option is calculated by subtracting the estimated costs from the estimated benefits. This gives a central estimate of £4.0m, with a benefit cost ratio of 2.01. The possible range of benefits under sensitivity analysis is £2.8m-£6.3m. This analysis shows the policy to be desirable from an economic point of view.

Distribution of benefits and costs

51. The distribution of these benefits and costs among stakeholders must also be considered. The analysis decomposes the NPV assessment given above into three key societal groups: consumers, industry, and the exchequer (both at central government and local government level). The table below describes the net impact on each of these stakeholders for the central estimate.

Table 4: Distribution of net benefits between stakeholders

Stakeholder group	NPV / £m	
Consumers	1.1	
Industry	2.6	
Exchequer	Central	0.3
	Local	0.0

52. This table shows that the preferred option is beneficial not just in aggregate, but also for each of the key stakeholders. This insight does not change under sensitivity analysis. This is intuitive: airside bars are only likely to provide gaming machines where they anticipate they will be able to benefit financially. This can only have a positive impact on the exchequer, which can only increase revenues relative to the baseline as a result of the preferred option. Consumers cannot be any

⁵ HM Treasury (2009), "Taxation of gaming machines: consultation on a gross profits tax", provides estimates of the total administrative burden of AMLD and the total number of gaming machines that this relates to. This has been used to calculate an average burden per machine, which can be applied in this impact assessment.

worse off than they are in the baseline, since they now have the option to benefit from the use of gaming machines where they had no choice previously.

One in one out

53. It is important to consider the impact on regulatory burden on business and civil society that is brought about by the preferred option. Current regulations stop certain businesses from having the option to provide gaming machines. The preferred option relaxes this regulation and allows airside bars to provide gaming machines to their customers. If airside bars do not use this option, the change in the regulatory burden would be zero. It is important to stress this, to demonstrate that in the worst case scenario the preferred option will not increase the regulatory burden. It is likely that some airside bars will take up the option to provide gaming machines, realising an economic benefit as argued above. This means that in the best estimation the preferred option will deliver a regulatory "out". It is measured by the equivalent annual net cost to business (EANCB), and amounts to £0.4m under the central estimate of the impact of the preferred option.

Risks

54. The Gambling Act 2005 is underpinned by three licensing objectives:

- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
- Ensuring gambling is conducted in a fair and open way;
- Protecting children and other vulnerable persons from being harmed or exploited by gambling.

55. The risks to the licensing objectives from applying gaming machine entitlements to airside bars are minimal due to the limited numbers of businesses that would be affected and the nature of those businesses. Under the regulatory framework implemented by the Gambling Act, alcohol licensed premises such as pubs and bars are considered low risk environments. This is reflected in the gambling entitlements permitted by the Gambling Act for such premises and the level of regulation imposed on them. In the Government's opinion the concerns addressed by the licensing objectives are no greater in airside areas of airports than elsewhere and are arguably lessened by the heightened security in these areas, the limited time available to members of the public would have to use the gaming machines and the likelihood that young and other vulnerable people would be accompanied.

56. The Government remains mindful of the results of the 2010 British Gambling Prevalence Survey⁶ which showed an increase in the level of problem gambling among adults, from 0.6% to 0.9% of the population. It is also mindful of the concerns that have been expressed in the past by, for example community and faith groups, about the role certain types of gaming machine might play in relation to problem gambling.

57. The businesses affected by this proposal would be permitted to offer only category C or category D gaming machines; these are the two lowest category of machine and are mostly located in low risk environments such as alcohol licensed premises and family entertainment centres. Should any airside bar take up its automatic entitlement or apply for a licensed premises gaming machine permit as a result of this proposal then, based on the types of gaming machines offered elsewhere in Britain by alcohol licensed premises, it is likely they would make available category C machines. This is the most common type of gaming machine in Britain with 121,000 such machines being made available for use in 2008/09 according to the Gambling Commission⁷. It was lawful for airside bars to offer similar types of machines prior to the implementation of the Licencing Act and Gambling Act and it is estimated that only another 36 category C gaming machines might come into use as a result of this proposal.

58. Should any operator of a bar located airside at an airport wish to make gaming machines available to customers as a result of this proposal then they will be required to notify the appropriate licensing authority and, if that operator wishes to exceed the automatic entitlement to two machines, apply for a pub permit. As a result, operators would be brought into the regulatory ambit of the licensing authority, further minimising any risk to the licensing objectives of the Gambling Act.

⁶ <http://www.gamblingcommission.gov.uk/>

⁷ <http://www.gamblingcommission.gov.uk/>

59. Under the Gambling Act licensing authorities have the power to remove the automatic entitlement from premises if provision of the gaming machines in question is not reasonably consistent with the licensing objectives, or if there has been a breach of the conditions contained in section 282, for example, gaming machines being made available in a way that does not comply with requirements contained in a code of practice about the location and operation of gaming machines.
60. The Government considers it unlikely that many, if any, airside bars would apply for a pub permit as a result of this proposal, but should an operator do so then they would be required to comply with the Gambling Commission's code of practice which covers the location and operation of gaming machines. A licensing authority may grant or refuse an application as well as cancel a permit.
61. Guidance has been issued by the Gambling Commission to licensing authorities on the manner in which they are to exercise their functions under the Gambling Act, and the principles to be applied by them in exercising them. This includes guidance in relation to the issuing of automatic entitlement and gaming machine permits available to alcohol-licensed premises and compliance with the considerations and conditions that underpin those provisions.

Wider Impacts

Economic / Financial

62. This proposal is a technical amendment designed to rectify a restriction imposed unintentionally through the interaction of the Licencing Act and the Licensing (Scotland) Act 2005 with the Gambling Act. As a result only a small number of businesses stand to benefit through the lifting of a restriction on the businesses' ability to generate additional revenue through offering gaming machines and the removal of the risk of criminal sanctions.
63. It is estimated that 17 existing premises would benefit from this proposal. This is a very narrowly defined market segment and it is unlikely to grow to be substantial over the lifetime of the policy. Given the nature of airside bars, there is likely to be no material impact on: the wider economy, competition, innovation. Cost impacts on businesses, the burden of regulation and the resources of other government departments and local government have been dealt with previously in paragraphs 47, 54, and 48 respectively.
64. Any costs to operators of airside bars as a result of this proposal will result from a choice to exercise their right to provide gaming facilities. These costs are expected to be relatively low, and can be expected to be outweighed by increased revenue for the business, since it is only rational for airside bars to provide gaming machines if they believe they will be profitable. The analysis presented above suggests that industry will enjoy a net gain as a result of the preferred option, as discussed in paragraph 52. Regulatory fees and taxes, and the administration costs associated with compliance, are a small component of cost, as discussed above in paragraphs 47 and 50. These costs would be the same requirement as for other alcohol licensed premises in Britain. It is possible that some airside bars operate as micro-businesses, although survey results tend to show predominance of larger businesses operating as chain bars. Nevertheless, for all the reasons above, it is considered unnecessary to exempt micro-businesses from this proposal.

Social

65. It is estimated that only 17 airside bars would be affected by this proposal. Any wider impacts on social, wellbeing or health inequalities would therefore be extremely limited and are included in the discussion of risks at paragraphs 56-60.
66. Airside bars are located in both urban and rural areas, but it is not expected that the preferred option will have a disproportionate impact on one of these areas. It is not anticipated that the preferred option will have any impact on safety at work, accidents in the community, levels of skills and education, facilities and services that support the community life, or human rights. The proposal does not impact on the responsibilities under the Equality Act 2010.

Environmental

67. The preferred option is not anticipated to have any significant environmental impacts. Introduction of new gaming machines will have a tiny impact on energy and natural resource use, but given that the preferred option is likely to introduce approximately 36 gaming machines, this impacts are likely to have no material effect on greenhouse gas emissions, waste management, or noise quality. There is no reason to believe that the preferred option would have any impact on landscape,

townscape, water pollution, water use, flood risk. The proposals are not vulnerable to the predicted effects of climate change.

